



# **GENERAL ASSEMBLY**

## **COMMONWEALTH OF KENTUCKY**

### **2005 REGULAR SESSION**

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SENATE BILL NO. 47

Volume 3 of 4

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WEDNESDAY, FEBRUARY 9, 2005

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The following bill was reported to the House from the Senate and ordered to be printed.

1 confidential by the receiving party. Any person making a report under this section  
2 regarding the offenses of another shall not be liable in any civil or criminal action  
3 based on the report if it was made in good faith.

4 (3) No employer shall, without just cause, discharge or in any manner discriminate or  
5 retaliate against any person who in good faith makes a report required or permitted  
6 by KRS 205.8451 to 205.8483, testifies, or is about to testify, in any proceeding  
7 with regard to any report or investigation. Any individual injured by any act in  
8 violation of the provisions of this subsection shall have a civil cause of action in  
9 Circuit Court to enjoin further violations, and to recover the actual damages  
10 sustained, together with the costs of the lawsuit, including a reasonable fee for the  
11 individual's attorney of record.

12 (4) No employee of the state Medicaid Fraud Control Unit, the Office of the Attorney  
13 General, the Office of the Inspector General, or the Cabinet for Health and Family  
14 Services shall notify the alleged offender of the identity of the person who in good  
15 faith makes a report required or permitted by KRS 205.8451 to 205.8483 nor shall  
16 the employee notify the alleged offender that a report has been made alleging a  
17 violation of KRS 205.8451 to 205.8483 until such time as civil or criminal  
18 proceedings have been initiated or a formal investigation has been initiated. Any  
19 information or report concerning an alleged offender shall be considered  
20 confidential in accordance with the Kentucky Open Records Law, KRS 61.870 to  
21 61.884.

22 Section 281. KRS 205.8467 is amended to read as follows:

23 (1) Any provider who has been found by a preponderance of the evidence in an  
24 administrative process, in conformity with any applicable federal regulations and  
25 with due process protections, to have knowingly submitted or caused claims to be  
26 submitted for payment for furnishing treatment, services, or goods under a medical  
27 assistance program provided under this chapter, which payment the provider was

1 not entitled to receive by reason of a violation of this chapter, shall:

2 (a) Be liable for restitution of any payments received in violation of this chapter,  
3 and interest at the maximum legal rate pursuant to KRS 360.010 in effect on  
4 the date any payment was made, for the period from the date payment was  
5 made to the date of repayment to the Commonwealth;

6 (b) Be liable for a civil payment in an amount up to three (3) times the amount of  
7 excess payments;

8 (c) Be liable for payment of a civil payment of five hundred dollars (\$500) for  
9 each false or fraudulent claim submitted for providing treatment, services, or  
10 goods;

11 (d) Be liable for payment of legal fees and costs of investigation and enforcement  
12 of civil payments; and

13 (e) Be removed as a participating provider in the Medical Assistance Program for  
14 two (2) months to six (6) months for a first offense, for six (6) months to one  
15 (1) year for a second offense, and for one (1) year to five (5) years for a third  
16 offense.

17 (2) Civil payments, interest, costs of investigation, and enforcement of the civil  
18 remedies recovered on behalf of the Commonwealth under this section shall be  
19 remitted to the State Treasurer for deposit in a Medicaid trust fund which is hereby  
20 created and shall not lapse. Funds deposited in the Medicaid trust fund shall not be  
21 spent until appropriated by the General Assembly for medical assistance services.

22 (3) The remedies under this section are separate from and cumulative to any other  
23 administrative, civil, or criminal remedies available under federal or state law or  
24 regulation.

25 (4) The Cabinet for Health and Family Services, in consultation with the Office of the  
26 Attorney General, may promulgate administrative regulations, pursuant to KRS  
27 Chapter 13A, for the administration of the civil payments contained in this section.

1 Section 282. KRS 205.8469 is amended to read as follows:

2 (1) The Attorney General, on behalf of the Commonwealth, may commence  
3 proceedings to enforce KRS 205.8451 to 205.8483, and to prosecute for all other  
4 criminal offenses that involve or are directly related to the use of any Medical  
5 Assistance Program funds or services provided under this chapter.

6 (2) In enforcing KRS 205.8451 to 205.8483, the Attorney General may subpoena  
7 witnesses or documents to the grand jury, District Court, or Circuit Court of the  
8 county or counties where venue lies, and subpoena witnesses or documents to the  
9 Office of the Attorney General to secure testimony for use in civil or criminal trials,  
10 investigations, or hearings affecting the Cabinet for Health and Family Services.

11 Section 283. KRS 205.8471 is amended to read as follows:

12 (1) The Commonwealth shall have a lien against all property of any provider or  
13 recipient who is found to have defrauded the Medicaid program for an amount equal  
14 to the sum defrauded plus any interest and penalties levied under KRS 205.8451 to  
15 205.8483. The lien shall attach to all property and rights to property owned by the  
16 provider or recipient and all property subsequently acquired after a finding of fraud  
17 by the Cabinet for Health and Family Services.

18 (2) The lien imposed by subsection (1) of this section shall not be defeated by gift,  
19 devise, sale, alienation, or any other means, and shall include the sum defrauded and  
20 all interest, penalties, fees, or other expenses associated with collection of the debt.  
21 The lien shall have priority over any other lien or obligation against the property,  
22 except as provided in subsection (3) of this section.

23 (3) The lien imposed by subsection (1) of this section shall not be valid as against any  
24 purchaser, judgment lien creditor, or holder of a security interest or mechanic's lien  
25 which was filed prior to the date on which notice of the lien created by this section  
26 is filed by the secretary for health and family services or his designee with the  
27 county clerk of the county or counties in which the provider's business or residence



1 is located, or in any county in which the taxpayer has an interest in property. The  
 2 notice of lien shall be recorded in the same manner as the notice of lis pendens.

3 (4) The secretary for health and family services shall issue a partial release of any part  
 4 of the property subject to lien upon payment by the debtor of that portion of the debt  
 5 and any interest, penalty, or fees covered by the lien on that property.

6 (5) The secretary for health and family services may enforce the lien created pursuant  
 7 to this section in the manner provided for the enforcement of statutory liens under  
 8 KRS 376.110 to 376.130.

9 Section 284. KRS 205.8473 is amended to read as follows:

10 In a prosecution for any violation of the provisions of KRS 205.8451 to 205.8483, it shall  
 11 be a defense if the person relied on the written advice of an employee or agent of the  
 12 Cabinet for Health and Family Services, and the advice constitutes a defense under any  
 13 of the provisions of KRS 501.070.

14 Section 285. KRS 205.8477 is amended to read as follows:

15 (1) Each health facility and health service as defined in KRS 216B.015 and each  
 16 provider, participating in the Medical Assistance Program shall, as a condition of  
 17 participation in the Medical Assistance Program, file annually with the Cabinet for  
 18 Health and Family Services the names and addresses of all persons having direct or  
 19 indirect ownership or control interest, as defined in 42 C.F.R. 455.101, with five  
 20 percent (5%) or more interest in the health facility, or health service or the business  
 21 of the provider and those Medical Assistance Program participating health facilities  
 22 or health services with which the reporting provider, or health facility, or health  
 23 service engages in a significant business transaction or a series of transactions that  
 24 during any one (1) fiscal year, exceed the lesser of twenty-five thousand dollars  
 25 (\$25,000) or five percent (5%) of the total operating expenses of the provider, or  
 26 health facility, or health service. The list of names and addresses shall be made  
 27 available by the cabinet for public inspection during regular business hours and

1 shall be updated annually.

2 (2) Each owner of or direct financial investor in any health facility or health service  
3 which dispenses or supplies drugs, medicines, medical devices, or durable medical  
4 equipment to a patient shall annually file with the Cabinet for Health and Family  
5 Services the names and addresses of any immediate family member who is  
6 authorized under state law to prescribe drugs or medicines or medical devices or  
7 equipment.

8 Section 286. KRS 205.8481 is amended to read as follows:

9 No staff of the Office of the Attorney General shall, in private practice of law, serve as  
10 legal counsel to or represent any provider, as defined in KRS 205.8451. Designated staff  
11 of the Office of the Attorney General shall work in cooperation with the Cabinet for  
12 Health and Family Services in any initiation of disciplinary proceedings against a health-  
13 care provider as defined in KRS 205.8451 and as may be authorized or required under  
14 KRS 205.8451 to 205.8483 for violations of KRS 205.8451 to 205.8483.

15 Section 287. KRS 205.8483 is amended to read as follows:

16 (1) The Office of the Inspector General in the Cabinet for Health and Family Services  
17 shall establish, maintain, and publicize a twenty-four (24) hour toll-free hotline for  
18 the purpose of receiving reports of alleged fraud and abuse by Medical Assistance  
19 Program recipients and participating providers.

20 (2) The Office of the Inspector General in the Cabinet for Health and Family Services  
21 shall prepare a written description of the reported information and immediately  
22 make a written referral to:

23 (a) The state Medicaid Fraud Control Unit and to the Office of the Attorney  
24 General of all reports of alleged fraud and abuse by providers or recipients  
25 participating in the Medical Assistance Program; and

26 (b) Other agencies and licensure boards of all reports relevant to their jurisdiction.

27 (3) The Office of the Inspector General in the Cabinet for Health and Family Services,

1 jointly with the state Medicaid Fraud Control Unit and the Office of the Attorney  
 2 General, shall prepare a Medicaid fraud and abuse report, for the prior fiscal year,  
 3 categorized by types of fraud and abuse and by recipient and provider group. This  
 4 report shall be submitted no later than July 1 of each year to the Legislative  
 5 Research Commission, the Interim Joint Committee on Appropriations and  
 6 Revenue, and the Interim Joint Committee on Health and Welfare and shall  
 7 identify:

8 (a) The number and type of reports received in the Office of the Inspector General  
 9 in the Cabinet for Health and Family Services, from the Medicaid fraud and  
 10 abuse hotline categorized by recipient and provider groups;

11 (b) The number and type of alleged Medicaid fraud and abuse reports which were  
 12 discovered by, received by, or referred to the Office of the Attorney General,  
 13 the state Medicaid Fraud Control Unit, the Office of the Inspector General,  
 14 and the Department for Medicaid Services; the number and type of reports  
 15 which were opened for investigation by the Office of the Attorney General,  
 16 the state Medicaid Fraud Control Unit, the Department for Medicaid Services,  
 17 or the Office of the Inspector General and their disposition including:

- 18 1. Administrative actions taken;
- 19 2. Criminal penalties and civil payments received;
- 20 3. The amount of state and federal funds involved in the alleged fraud and  
 21 abuse;
- 22 4. The cost of administering the hotline; and
- 23 5. Recommendations for legislative action to prevent, detect, and prosecute  
 24 medical assistance abuse and fraud in the Commonwealth.

25 Section 288. KRS 205.900 is amended to read as follows:

26 As used in KRS 205.905 to 205.920:

- 27 (1) "Cabinet" means the Cabinet for Health and Family Services.

1 (2) "Evaluation team" means at least three (3) individuals employed as such by a  
2 qualified agency or organization.

3 (3) "Personal care assistance services" means services which are required by an adult  
4 with a severe physical disability to achieve greater physical independence and  
5 which include, but are not limited to:

6 (a) Routine bodily functions, such as bowel or bladder care;

7 (b) Dressing;

8 (c) Housecleaning and laundry;

9 (d) Preparation and consumption of food;

10 (e) Moving in and out of bed;

11 (f) Routine bathing;

12 (g) Ambulation; and

13 (h) Any other similar activity of daily living.

14 (4) "Qualified agency or organization" means an agency or organization whose purpose  
15 is to provide services to severely physically disabled adults to enable them to live as  
16 independently as possible and a majority of whose governing board are consumers  
17 of these services. If no qualified agency or organization exists, an agency or  
18 organization may become a qualified provider when consumers of personal care  
19 assistance services are a majority of its advisory council.

20 (5) "Secretary" means the secretary of the Cabinet for Health and Family Services.

21 (6) "Severely physically disabled adult" means a person eighteen (18) years of age or  
22 older with permanent or temporary, recurring functional loss of two (2) or more  
23 limbs.

24 Section 289. KRS 205.935 is amended to read as follows:

25 As used in KRS 205.940:

26 (1) "Cabinet" means the Cabinet for Health and Family Services~~[Families and~~  
27 ~~Children]~~;

1 (2) "Representative payee" means a person appointed by the Social Security  
2 Administration, Veterans Administration, or other nonprofit social service agency to  
3 provide financial management services to persons receiving Social Security  
4 Administration, Veterans Administration, or other government benefits, who are  
5 incapable of making or executing responsible financial decisions.

6 Section 290. KRS 205.940 is amended to read as follows:

7 (1) A representative payee fund shall be created for the purpose of providing grants to  
8 public or private organizations who provide representative payee services. The fund  
9 shall consist of moneys appropriated by the General Assembly. These moneys may  
10 also be supplemented by funds obtained from other sources for the fund as provided  
11 in this section.

12 (2) The fund shall be administered by the Cabinet for *Health and Family*  
13 *Services*~~[Families and Children]~~.

14 (3) Application for moneys from the fund may be made to the cabinet, on forms  
15 prescribed by administrative regulation. The awarding of grants shall be based upon  
16 the availability of funds. Grants shall be given to nonprofit organizations or  
17 agencies providing representative payee services to more than ten (10) persons who  
18 are mentally impaired, homeless or at risk of being homeless, or substance abusers  
19 in area development districts created pursuant to KRS 147A.050. The cabinet shall  
20 endeavor to fund an applicant where an eligible applicant exists. Health-care  
21 facilities or other institutions, who serve as representative payees for persons  
22 residing therein, shall not be eligible to receive funds under this section.

23 (4) In determining the amount of each grant, the cabinet shall consider the number of  
24 persons receiving representative payee services from an applicant, the amount  
25 necessary to reimburse the applicant for all or a portion of the administrative costs  
26 incurred in providing representative payee services, and any fee charged by an  
27 applicant for the provision of representative payee services.

1 (5) The cabinet shall require applicants receiving funds pursuant to this section to be  
2 bonded, and to file an annual report with the cabinet providing an accounting of all  
3 funds expended on behalf of persons for whom representative payee services are  
4 provided. The cabinet shall promulgate administrative regulations providing for the  
5 termination of a grant if it determines a representative payee is not serving in the  
6 best interests of a client. If a grant is terminated, the cabinet shall report the  
7 termination to the agency who appointed the representative payee and recommend  
8 the appointment of a new representative payee. If financial exploitation is indicated,  
9 the termination shall also be reported to the Department for Community Based  
10 Services for investigation pursuant to KRS Chapter 209.

11 (6) The cabinet may provide training for persons serving as representative payees and  
12 may provide technical assistance to applicants awarded a grant.

13 (7) The cabinet may apply for any grants that may be used to supplement the  
14 representative payee fund, and may accept gifts or donations to the fund.

15 Section 291. KRS 205.950 is amended to read as follows:

16 (1) The Cabinet for Health and Family Services shall, by administrative regulation in  
17 accordance with KRS Chapter 13A, establish health, safety, and treatment  
18 requirements for certified adult day care centers. No person, association,  
19 corporation, or other organization shall operate or maintain an adult day care center  
20 without first obtaining a certification as provided in this section.

21 (2) The cabinet may issue a certification to any adult day care center meeting standards  
22 provided for under subsection (1) of this section. The cabinet may deny, revoke,  
23 suspend, or modify adult day care center certification for failure to comply with  
24 standards or when it determines the health, safety, or security of residents is in  
25 jeopardy. Actions to deny, revoke, suspend, or modify a certification may be  
26 appealed to the cabinet within thirty (30) days of receipt of notification of intent.  
27 Upon appeal, a hearing shall be conducted in accordance with KRS Chapter 13B.

1       Section 292. KRS 207.200 is amended to read as follows:

- 2       (1) The Kentucky Department of Workplace Standards is authorized to enforce the  
3       employment provisions of KRS 207.130 to 207.240 in conjunction with the State  
4       Attorney General's office and the state and local courts.
- 5       (2) Any individual with a disability requesting the intervention of the Kentucky  
6       Department of Workplace Standards under this section shall, within one hundred  
7       and eighty (180) days of the alleged incident, submit with his request a signed,  
8       sworn statement specifying and describing the disability or disabilities which affect  
9       him. This statement may be used by the commissioner of workplace standards or his  
10      representative to determine if the individual does, or does not, have a "physical  
11      disability" as defined in KRS 207.130(2). If the commissioner of workplace  
12      standards or his representative determines that the aggrieved individual does have a  
13      disability which falls under the definition in KRS 207.130(2), the Department of  
14      Workplace Standards shall provide a copy of the aggrieved individual's signed  
15      statement to the employer for his inspection.
- 16      (3) In the event the employer wishes to challenge the validity of the statement, he shall  
17      so notify the commissioner of workplace standards, who shall in turn notify the  
18      aggrieved individual. If the aggrieved individual wishes the Department of  
19      Workplace Standards to continue its involvement with the case, he shall be required  
20      to submit to the commissioner of workplace standards, within thirty (30) days of  
21      such notice, a signed, sworn statement from a licensed physician of his choice, or  
22      from one of the state or federal agencies serving individuals with disabilities:
- 23      (a) Specifying and describing the disability or disabilities affecting the individual;  
24      and
- 25      (b) Indicating any specific type of employment for which such disability should  
26      be considered a bona fide or necessary reason for limitation or exclusion.
- 27      (4) (a) The state agencies which may be consulted under subsection (3) of this

section may include, but are not limited to, the following:

1. Department of Education, Office of Vocational Rehabilitation Services;
2. Cabinet for Health and Family Services, Department for Public Health;
3. Cabinet for Health and Family Services~~[Families and Children]~~,  
Department for Disability Determination Services.

(b) The commissioner of workplace standards, in conjunction with the agencies designated in this subsection, is authorized to adopt appropriate regulations governing the issuance and setting the standards of determinations of ability or disability;

(c) The agencies designated in this subsection, and any other state agency which serves individuals with disabilities and which the commissioner of workplace standards deems proper, shall cooperate to the fullest with the Department of Workplace Standards in issuing a statement of disability and limitations as specified in subsection (3) of this section within twenty (20) days of the date the individual with a disability presents himself before such agency for examination.

(5) (a) For the purposes of KRS 207.130 to 207.240, the commissioner of workplace standards, or his authorized representative, shall have the power to enter the place of employment of any employer, labor organization, or employment agency to inspect and copy employment records, to compare character of work and operations on which persons employed by him are engaged, to question such persons, and to obtain such other information as is reasonably necessary to make a preliminary determination that the aggrieved individual is, or is not, fully capable of carrying out the duties of the job which he or she had been denied;

(b) In the event that a preliminary determination is made that the aggrieved individual is not fully capable of carrying out the duties of the job which he or



1 she had been denied, the aggrieved individual and the employer shall both be  
2 so advised;

3 (c) The aggrieved individual, within ten (10) days of receiving such notification,  
4 may file with the Department of Workplace Standards an application for  
5 reconsideration of the determination. Upon such application, the  
6 commissioner of workplace standards or his representative shall make a new  
7 determination within ten (10) days whether the aggrieved individual is, or is  
8 not, fully capable of carrying out the duties of the job which he or she had  
9 been denied. If the determination is again made that the aggrieved individual  
10 is not fully capable of carrying out these duties, the aggrieved individual and  
11 the employer shall both be so advised;

12 (d) In the event that a preliminary determination has been made that the aggrieved  
13 individual is fully capable of carrying out the duties of the job which he or she  
14 had been denied, the employer, labor organization, or employment agency  
15 shall be so advised and encouraged to make an immediate offer to the  
16 aggrieved individual of the position which he or she had been denied. In the  
17 event the position has already been filled, the employer, labor organization, or  
18 employment agency shall be encouraged to make an offer to the aggrieved  
19 individual of the next available position for which he or she is qualified.

20 Section 293. KRS 209.005 is amended to read as follows:

21 (1) The Cabinet for **Health and Family Services**~~[Families and Children]~~ shall create an  
22 Elder Abuse Committee to develop a model protocol on elder abuse and neglect in  
23 the Commonwealth, that shall be comprised of various state agency representatives  
24 from the following list:

- 25 (a) The Department for Community Based Services;
- 26 (b) The Department for Public Health;
- 27 (c) The Department for Mental Health and Mental Retardation;

- 1 (d) The **Division**~~[Office]~~ of Aging Services;
- 2 (e) The Division of **Health Care Facilities and Services**~~[Long Term Care]~~;
- 3 (f) The Office of the Ombudsman; and
- 4 (g) Area Agencies on Aging.

5 (2) The committee shall address issues of prevention, intervention, and agency  
 6 coordination of services on a state and local level through interaction with local  
 7 groups or entities that either directly or indirectly provide services to the elder  
 8 population, including, but not limited to:

- 9 (a) Senior citizen centers;
- 10 (b) Local governmental human service groups;
- 11 (c) The Sanders-Brown Center on Aging at the University of Kentucky;
- 12 (d) Long Term Care Ombudsmen; and
- 13 (e) Other organizations or associations dedicated to serving elder citizens and  
 14 their families in the Commonwealth.

15 (3) The committee shall:

- 16 (a) Explore the need for a comprehensive statewide resource directory of services  
 17 for the elderly;
- 18 (b) Enhance existing public awareness campaigns for elder abuse and neglect; and
- 19 (c) Provide forums for the exchange of information to educate the elder  
 20 population and their families on the rights of elders.

21 (4) The committee shall produce an annual report of their activities, products, and  
 22 recommendations for public policy to the Governor and the Legislative Research  
 23 Commission.

24 Section 294. KRS 209.020 is amended to read as follows:

25 As used in this chapter, unless the context otherwise requires:

- 26 (1) "Secretary" means the secretary of the Cabinet for **Health and Family**  
 27 **Services**~~[Families and Children]~~;

- 1 (2) "Cabinet" means the Cabinet for Health and Family Services~~[Families and~~  
 2 ~~Children]~~;
- 3 (3) "Department" means the Department for Community Based Services of the Cabinet  
 4 for Health and Family Services~~[Families and Children]~~;
- 5 (4) "Adult" means:
- 6 (a) A person eighteen (18) years of age or older, who because of mental or  
 7 physical dysfunctioning, is unable to manage his own resources or carry out  
 8 the activity of daily living or protect himself from neglect, or a hazardous or  
 9 abusive situation without assistance from others, and who may be in need of  
 10 protective services; or
- 11 (b) A person without regard to age who is the victim of abuse and neglect  
 12 inflicted by a spouse;
- 13 (5) "Protective services" means agency services undertaken with or on behalf of an  
 14 adult in need of protective services who is being abused, neglected, or exploited.  
 15 These services may include, but are not limited to conducting investigations of  
 16 complaints of possible abuse, neglect, or exploitation to ascertain whether or not the  
 17 situation and condition of the adult in need of protective services warrants further  
 18 action; social services aimed at preventing and remedying abuse, neglect, and  
 19 exploitation; and services directed toward seeking legal determination of whether or  
 20 not the adult in need of protective services has been abused, neglected, or exploited  
 21 and to ensure that he obtains suitable care in or out of his home;
- 22 (6) "Caretaker" means an individual or institution who has the responsibility for the  
 23 care of the adult as a result of family relationship, or who has assumed the  
 24 responsibility for the care of the adult person voluntarily, or by contract, or  
 25 agreement;
- 26 (7) "Abuse" means the infliction of physical pain, mental injury, or injury of an adult;
- 27 (8) "Exploitation" means the improper use of an adult or an adult's resources by a

- 1        caretaker or other person for the profit or advantage of the caretaker or other person;
- 2        (9) "Investigation" shall include, but is not limited to, a personal interview with the
- 3        individual reported to be abused, neglected, or exploited. When abuse, or neglect is
- 4        allegedly the cause of death, a coroner's or doctor's report shall be examined as part
- 5        of the investigation;
- 6        (10) "Emergency" means that an adult is living in conditions which present a substantial
- 7        risk of death or immediate and serious physical harm to himself or others;
- 8        (11) "Emergency protective services" are protective services furnished an adult in an
- 9        emergency;
- 10       (12) "Protective placement" means the transfer of an adult from his present living
- 11       arrangement to another;
- 12       (13) "Court" means the Circuit Court or the District Court if no judge of that Circuit
- 13       Court is present in the county;
- 14       (14) "Access to records" means that any representative of the Cabinet for Health and
- 15       Family Services~~[Families and Children]~~ actively involved in the conduct of an
- 16       abuse, neglect, or exploitation investigation under this chapter shall be allowed
- 17       access to the medical, mental, health, and financial records of the adult that are in
- 18       the possession of any individual, hospital, firm, corporation or other facility, if
- 19       necessary to complete the investigation mandated in this chapter; and
- 20       (15) "Neglect" means a situation in which an adult is unable to perform or obtain for
- 21       himself the services which are necessary to maintain his health or welfare, or the
- 22       deprivation of services by a caretaker which are necessary to maintain the health
- 23       and welfare of an adult, or a situation in which a person deprives his spouse of
- 24       reasonable services to maintain health and welfare.

25       Section 295. KRS 209.160 is amended to read as follows:

26       There is hereby created a trust and agency account in the State Treasury to be known as

27       the spouse abuse shelter fund. Each county clerk shall remit to the fund, by the tenth of

1 the month, ten dollars (\$10) from each twenty-four dollars (\$24) collected during the  
 2 previous month from the issuance of marriage licenses. The fund shall be administered by  
 3 the Revenue Cabinet. The Cabinet for Health and Family Services~~[Families and~~  
 4 ~~Children]~~ shall use the funds for the purpose of providing protective shelter services for  
 5 spouse abuse victims.

6 Section 296. KRS 209.420 is amended to read as follows:

- 7 (1) There is established within the Cabinet for Health and Family Services~~[Families~~  
 8 ~~and Children]~~ a statewide Senior and Physically Disabled Adult Discount Program  
 9 for the purpose of making retail goods and services available at reduced rates to the  
 10 Commonwealth's senior citizens.
- 11 (2) Program participation shall be voluntary and free. No fees, dues, or other charges  
 12 shall be assessed by the cabinet nor required of the merchants or senior or  
 13 physically disabled adult citizens who choose to participate. The cabinet shall invite  
 14 retail merchants to participate in the program by extending discounts on their  
 15 merchandise or services to physically disabled adults and citizens sixty (60) years of  
 16 age and older. The conditions and rate of the discounts shall be determined by the  
 17 participating businesses. Persons sixty (60) years of age and physically disabled  
 18 adults shall be eligible to participate in the program by presenting valid proof of age  
 19 or a statement from a licensed physician that the person is physically disabled to  
 20 participating businesses.
- 21 (3) The secretary of the cabinet shall make such regulations as necessary to provide  
 22 program identification for participating merchants and senior citizens lacking proof  
 23 of age, informational brochures, directories of participating businesses, and other  
 24 printed materials essential to the implementation and promotion of the program.

25 Section 297. KRS 209.500 is amended to read as follows:

26 The Kentucky Senior Games Program is hereby created within the Division~~[Office]~~ of  
 27 Aging Services of the Cabinet for Health and Family Services. The program shall

1 develop a year-round recreation, fitness, and health promotion program for Kentuckians  
 2 fifty-five (55) years of age or older which shall provide a network of local competition  
 3 and participation that culminates in a senior games state final.

4 Section 298. KRS 210.005 is amended to read as follows:

5 As used in this chapter, unless the context otherwise requires:

6 (1) "Mentally retarded person" means a person with significantly subaverage general  
 7 intellectual functioning existing concurrently with deficits in adaptive behavior and  
 8 manifested during the developmental period.

9 (2) "Mental illness" means a diagnostic term that covers many clinical categories,  
 10 typically including behavioral or psychological symptoms, or both, along with  
 11 impairment of personal and social function, and specifically defined and clinically  
 12 interpreted through reference to criteria contained in the Diagnostic and Statistical  
 13 Manual of Mental Disorders (Third Edition) and any subsequent revision thereto, of  
 14 the American Psychiatric Association.

15 (3) "Chronic" means that clinically significant symptoms of mental illness have  
 16 persisted in the individual for a continuous period of at least two (2) years, or that  
 17 the individual has been hospitalized for mental illness more than once in the last  
 18 two (2) years, and that the individual is presently significantly impaired in his  
 19 ability to function socially or occupationally, or both.

20 (4) "Cabinet" means the Cabinet for Health and Family Services.

21 (5) "Deaf or hard-of-hearing" means having a hearing impairment so that a person  
 22 cannot hear and understand speech clearly through the ear alone, irrespective of the  
 23 use of any hearing aid device.

24 (6) "Secretary" means the secretary of the Cabinet for Health and Family Services.

25 Section 299. KRS 210.010 is amended to read as follows:

26 The secretary for health and family services shall have authority to prescribe rules and  
 27 regulations for the administration of the cabinet and of the institutions under the control

1 of the cabinet, including power to regulate the payment of money to patients in mental  
2 institutions for work performed.

3 Section 300. KRS 210.031 is amended to read as follows:

4 (1) The cabinet shall establish an advisory committee of sixteen (16) members to advise  
5 the Department for Mental Health and Mental Retardation Services of the need for  
6 particular services for persons who are deaf or hard-of-hearing.

7 (a) At least eight (8) members shall be deaf or hard-of-hearing and shall be  
8 appointed by the secretary. Four (4) deaf or hard-of-hearing members,  
9 representing one (1) of each of the following organizations, shall be appointed  
10 from a list of at least two (2) nominees submitted from each of the following  
11 organizations:

- 12 1. The Kentucky Association of the Deaf;
- 13 2. The A.G. Bell Association;
- 14 3. The Kentucky School for the Deaf Alumni Association; and
- 15 4. Self Help for the Hard of Hearing.

16 The remaining four (4) deaf or hard-of-hearing members shall be appointed by  
17 the secretary from a list of at least eight (8) nominees submitted by the  
18 Kentucky Commission on the Deaf and Hard of Hearing.

19 (b) One (1) member shall be a family member of a deaf or hard-of-hearing  
20 consumer of mental health services and shall be appointed by the secretary  
21 from a list of nominees accepted from any source.

22 (c) The head of each of the following entities shall appoint one (1) member to the  
23 advisory committee:

- 24 1. The Cabinet for Health and Family Services, Department for Mental  
25 Health and Mental Retardation Services;
- 26 2. The Cabinet for Workforce Development, Department of Vocational  
27 Rehabilitation;

- 1           3.    The Cabinet for Health and Family Services, Division~~[Office]~~ of Aging
- 2                    Services;
- 3           4.    The Education, Arts, and Humanities Cabinet, Commission on the Deaf
- 4                    and Hard of Hearing;
- 5           5.    The Kentucky Registry of Interpreters for the Deaf; and
- 6           6.    A Kentucky School for the Deaf staff person involved in education.
- 7       (d)   The remaining member shall be a representative of a regional mental
- 8           health/mental retardation board, appointed by the commissioner of the
- 9           Department for Mental Health and Mental Retardation Services from a list
- 10          composed of two (2) names submitted by each regional mental health/mental
- 11          retardation board.
- 12   (2)   Of the members defined in subsection (1)(a) and (b) of this section, three (3) shall
- 13          be appointed for a one (1) year term, three (3) shall be appointed for a two (2) year
- 14          term, and three (3) shall be appointed for a three (3) year term; thereafter, they shall
- 15          be appointed for three (3) year terms. The members defined under subsection (1)(c)
- 16          and (d) of this section shall serve with no fixed term of office.
- 17   (3)   The members defined under subsection (1)(a) and (b) of this section shall serve
- 18          without compensation but shall be reimbursed for actual and necessary expenses;
- 19          the members defined under subsection (1)(c) and (d) shall serve without
- 20          compensation or reimbursement of any kind.
- 21   (4)   The Department for Mental Health and Mental Retardation Services shall make
- 22          available personnel to serve as staff to the advisory committee.
- 23   (5)   The advisory committee shall meet quarterly at a location determined by the
- 24          committee chair.
- 25   (6)   (a)   The advisory committee shall prepare a biennial report which:
- 26          1.    Describes the accommodations and the mental health, mental
- 27          retardation, development disability, and substance abuse services made



1 accessible to deaf and hard-of-hearing persons;

2 2. Reports the number of deaf or hard-of-hearing persons served;

3 3. Identifies additional service needs for the deaf and hard-of-hearing; and

4 4. Identifies a plan to address unmet service needs.

5 (b) The report shall be submitted to the secretary, the commissioner of the  
6 Department for Mental Health and Mental Retardation Services, and the  
7 Interim Joint Committee on Health and Welfare by July 1 of every odd-  
8 numbered year.

9 Section 301. KRS 210.040 is amended to read as follows:

10 The Cabinet for Health ***and Family*** Services shall:

11 (1) Exercise all functions of the state in relation to the administration and operation of  
12 the state institutions for the care and treatment of persons with mental illness;

13 (2) Establish or acquire, in accordance with the provisions of KRS 56.440 to 56.550,  
14 other or additional facilities for psychiatric care and treatment of persons who are or  
15 may become state charges;

16 (3) Cooperate with other state agencies for the development of a statewide mental  
17 health program looking toward the prevention of mental illness and the post-  
18 institutional care of persons released from public or private mental hospitals;

19 (4) Provide for the custody, maintenance, care, and medical and psychiatric treatment  
20 of the patients of the institutions operated by the cabinet;

21 (5) Provide psychiatric consultation for the state penal and correctional institutions, and  
22 for the state institutions operated for children or for persons with mental retardation;

23 (6) Administer and supervise programs for the noninstitutional care of persons with  
24 mental illness;

25 (7) Administer and supervise programs for the care of persons with chronic mental  
26 illness, including but not limited to provision of the following:

27 (a) Identification of persons with chronic mental illness residing in the area to be

1 served;

2 (b) Assistance to persons with chronic mental illness in gaining access to essential  
3 mental health services, medical and rehabilitation services, employment,  
4 housing, and other support services designed to enable persons with chronic  
5 mental illness to function outside inpatient institutions to the maximum extent  
6 of their capabilities;

7 (c) Establishment of community-based transitional living facilities with twenty-  
8 four (24) hour supervision and community-based cooperative facilities with  
9 part-time supervision; provided that, no more than either one (1) transitional  
10 facility or one (1) cooperative facility may be established in a county  
11 containing a city of the first class or consolidated local government with any  
12 funds available to the cabinet;

13 (d) Assurance of the availability of a case manager for each person with chronic  
14 mental illness to determine what services are needed and to be responsible for  
15 their provision; and

16 (e) Coordination of the provision of mental health and related support services  
17 with the provision of other support services to persons with chronic mental  
18 illness;

19 (8) Require all providers who receive public funds through state contracts, state grants,  
20 or reimbursement for services provided to have formalized quality assurance and  
21 quality improvement processes, including but not limited to a grievance procedure;  
22 and

23 (9) Supervise private mental hospitals receiving patients committed by order of a court.

24 Section 302. KRS 210.042 is amended to read as follows:

25 (1) The Cabinet for Health **and Family** Services may provide, to the extent funds are  
26 available under KRS 210.040 and under conditions and standards established by the  
27 cabinet, funds to any nonprofit agency recognized as operating in the field of mental

1 health and whose objectives are to carry out the purposes of KRS 210.040.

- 2 (2) The funds, if provided, may be matched on a fifty-fifty (50-50) basis by the  
3 nonprofit agency receiving such funds. The cabinet shall determine whether the  
4 match may be in money or in kind services or other match.

5 Section 303. KRS 210.045 is amended to read as follows:

- 6 (1) The Cabinet for Health and Family Services shall:

- 7 (a) Maintain, operate, and assume program responsibility for all state institutions  
8 and facilities for mental retardation;
- 9 (b) Provide rehabilitation services for mentally retarded persons through  
10 educational and training programs;
- 11 (c) Provide medical and allied services to mentally retarded persons and their  
12 families;
- 13 (d) Encourage and assist communities to develop programs and facilities in the  
14 field of mental retardation;
- 15 (e) Sponsor or carry out research, or both, in the field of mental retardation;
- 16 (f) Assist other governmental and private agencies in the development of  
17 programs and services for mentally retarded persons and their families and for  
18 the prevention of mental retardation, and coordinate programs and services so  
19 developed;
- 20 (g) Provide written notice to the Legislative Research Commission of its intent to  
21 propose legislation to permit immediate or gradual closure of any state-owned  
22 or state-operated facility that provides residential services to persons with  
23 mental retardation or other developmental disabilities at least sixty (60) days  
24 prior to the next legislative session; and
- 25 (h) 1. Provide written notice by registered mail to each resident, his or her  
26 immediate family, if known, and his or her guardian of its intent to  
27 propose legislation to permit immediate or gradual closure of any state-

1           operated facility that provides residential services to persons with mental  
 2           retardation or other developmental disabilities at least sixty (60) days  
 3           prior to the next legislative session; and

4           2. Include in the written notice provided under this paragraph that the  
 5           resident, the resident's immediate family, his or her guardian, or any  
 6           other interested party with standing to act on behalf of the resident has  
 7           the right to pursue legal action relating to the notice provisions of this  
 8           paragraph and relating to the closure of the facility.

9       (2) Any state-owned or state-operated facility or group home that provides residential  
 10       services to persons with mental retardation or other developmental disabilities and  
 11       that has been funded by the General Assembly in a specific biennium, shall not be  
 12       closed, nor shall the Cabinet for Health and Family Services announce the pending  
 13       closure of the facility, during the same biennium except through the provisions  
 14       specified by subsection (1) of this section.

15       (3) The Cabinet for Health and Family Services may close any state-owned or state-  
 16       operated facility that provides residential services to persons with mental retardation  
 17       or other developmental disabilities upon the effective date of an adopted act of  
 18       legislation.

19       (4) When a demonstrated health or safety emergency exists for a facility or a federal  
 20       action that requires or necessitates a gradual or immediate closure exists for the  
 21       facility, the cabinet may seek relief from the requirements of this section in the  
 22       Circuit Court of the county where the facility is located. In these situations:

23       (a) The cabinet shall provide written notice by registered mail to each resident,  
 24       the resident's immediate family, if known, and his or her guardian, at least ten  
 25       (10) days prior to filing an emergency petition in the Circuit Court; and

26       (b) All interested parties, including the cabinet, the resident, his or her immediate  
 27       family, his or her guardian, or other interested parties with standing to act on

1           behalf of the resident shall have standing in the proceedings under this  
2           subsection.

3   (5) Any resident, family member or guardian, or other interested parties, as defined by  
4   KRS 387.510(12) with standing to act on behalf of the resident who wishes to  
5   challenge the decision or actions of the Cabinet for Health and Family Services  
6   regarding the notice requirements of subsection (1) of this section shall have a cause  
7   of action in the Circuit Court of the county in which the facility is located, or in  
8   Franklin Circuit Court. In addition to other relief allowable by law, the resident,  
9   family member or guardian, or other interested party with standing to act on behalf  
10   of the resident may seek compensatory damages and attorney fees. Punitive  
11   damages shall not be allowable under this section.

12   (6) Any resident, family member or guardian, or other interested parties, as defined by  
13   KRS 387.510(12) with standing to act on behalf of the resident may challenge the  
14   decision of the state to close a facility in a de novo hearing in the Circuit Court of  
15   the county in which the facility is located, or in Franklin Circuit Court. In addition  
16   to other relief allowable by law, the resident, family member or guardian, or other  
17   interested party with standing to act on behalf of the resident may seek  
18   compensatory damages and attorney fees. Punitive damages shall not be allowable  
19   under this section.

20   Section 304. KRS 210.055 is amended to read as follows:

21   The Cabinet for Health and Family Services may:

22   (1) Promulgate reasonable rules and regulations for the purposes of carrying out the  
23   provisions of KRS 210.045, including regulations establishing the minimum and  
24   maximum ages within which mentally retarded persons are eligible:

25       (a) To participate in programs operated by the cabinet;

26       (b) To become patients in institutions operated by the cabinet;

27   (2) Participate in the education and training of professional and other persons in the

field of mental retardation, and may encourage and assist private and public agencies and institutions to participate in similar education and training;

- (3) Do all other things reasonably necessary to carry out the provisions of KRS 210.045.

Section 305. KRS 210.057 is amended to read as follows:

- (1) The Cabinet for Health and Family Services shall conduct research into all aspects of controlled substances as defined in KRS 218A.010 in coordination with the Kentucky Board of Pharmacy.

- (2) The Cabinet for Health and Family Services may authorize persons engaged in research on the use and effects of dangerous substances to withhold the names and other identifying characteristics of persons who are subjects of such research. Persons who obtain this authorization may not be compelled in any state civil, criminal, administrative, legislative, or other proceeding to identify the subjects of research for which such authorization was obtained.

- (3) The Cabinet for Health and Family Services may authorize the possession and distribution of controlled dangerous substances by persons engaged in research. Persons who obtain this authorization shall be exempt from state prosecution for possession and distribution of dangerous substances to the extent authorized by the Cabinet for Health and Family Services.

Section 306. KRS 210.080 is amended to read as follows:

The secretary for health and family services may transfer any employee between the institutions operated by the cabinet, or to the headquarters of the cabinet. Necessary moving expenses involved in such transfers shall be paid by the cabinet.

Section 307. KRS 210.090 is amended to read as follows:

Neither the commissioner of the Department for Mental Health and Mental Retardation of the Cabinet for Health and Family Services nor his deputy nor any superintendent or director of an institution of the Department for Mental Health and Mental Retardation

1 shall be permitted to engage in any partisan political activity.

2 Section 308. KRS 210.100 is amended to read as follows:

3 No officer or employee of any institution operated by the Cabinet for Health and Family  
4 Services shall be required to give personal attendance as a witness in any civil suit out of  
5 the county in which the institution is located, but his deposition shall be taken in lieu  
6 thereof.

7 Section 309. KRS 210.110 is amended to read as follows:

8 (1) No officer, employee, or agent of the Cabinet for Health and Family Services, a  
9 regional community mental health-mental retardation board or a nonprofit  
10 corporation administering a regional community mental health-mental retardation  
11 program shall sell anything to any institution, facility, or organization under the  
12 control of the cabinet nor participate in selection, or in the award or administration  
13 of a contract supported by state or federal funds if a conflict of interest, real or  
14 apparent, would be involved.

15 (2) Such a conflict of interest would arise when:

- 16 (a) The employee, officer, or agent;  
17 (b) Any member of his immediate family;  
18 (c) His or her partner; or  
19 (d) An organization which employs, or is about to employ, any of the above, has a  
20 financial or other interest in the firm selected for award.

21 Section 310. KRS 210.120 is amended to read as follows:

22 No physician or doctor employed by the Cabinet for Health and Family Services shall  
23 receive or accept any compensation for personal services other than that paid by the state,  
24 except that the secretary, and other physicians and doctors when so authorized by the  
25 secretary, may be employed in, and receive compensation from outside activities such as  
26 teaching, research, or community service work, to an extent that will not interfere with  
27 the performance of the duties of their office or employment.

1       Section 311. KRS 210.130 is amended to read as follows:

2       Religious instruction and ministration for patients of the institutions operated by the  
3       Cabinet for Health and Family Services shall be provided.

4       Section 312. KRS 210.170 is amended to read as follows:

5       The Cabinet for Health and Family Services may accept money from the federal  
6       government, or any of its agencies, under any grant agreement entered into by this state or  
7       by the cabinet. Such money may be expended for capital outlay in accordance with the  
8       provisions of KRS 56.440 to 56.550. The cabinet also may accept grants, gifts, bequests,  
9       or devises from public or private sources, and use the same for any purpose within the  
10      scope of the functions of the cabinet, consistent with the terms of the grant, gift, bequest,  
11      or devise.

12      Section 313. KRS 210.180 is amended to read as follows:

13      There shall be established and maintained, at each of the institutions operated by the  
14      Cabinet for Health and Family Services, a canteen which shall be incorporated and self-  
15      supporting. The directors of each canteen shall be appointed by the secretary. All profits  
16      from each canteen shall be used exclusively for the benefit of the patients of the  
17      institution.

18      Section 314. KRS 210.190 is amended to read as follows:

19      The secretary of the Cabinet for Health and Family Services may utilize the services of  
20      the workers of the other cabinets, when authorized by the agency heads of these cabinets.  
21      The secretary of the Cabinet for Health and Family Services may authorize payment of  
22      the actual traveling expenses of the workers so utilized.

23      Section 315. KRS 210.220 is amended to read as follows:

24      No patient of any of the institutions operated by the Cabinet for Health and Family  
25      Services shall be denied the right to correspond with an attorney or with the secretary.

26      Section 316. KRS 210.230 is amended to read as follows:

27      The secretary of the Cabinet for Health and Family Services may prescribe appropriate



1 records to be maintained covering the operations of the cabinet and of the institutions  
2 operated by it, and covering involuntary hospitalization procedures. Any record forms  
3 applicable to involuntary hospitalization procedures shall be furnished to each court  
4 having jurisdiction to order hospitalization of mentally ill or retarded persons, and the  
5 records contemplated by such forms shall thereafter be made by the hospitalizing courts.

6 Section 317. KRS 210.235 is amended to read as follows:

7 All applications and requests for admission and release, and all certifications, records,  
8 and reports of the Cabinet for Health and Family Services which directly or indirectly  
9 identify a patient or former patient or a person whose hospitalization has been sought,  
10 shall be kept confidential and shall not be disclosed by any person, except insofar as:

- 11 (1) The person identified or his guardian, if any, shall consent; or
- 12 (2) Disclosure may be necessary to carry out the provisions of the Kentucky Revised  
13 Statutes, and the rules and regulations of cabinets and agencies of the  
14 Commonwealth of Kentucky; or
- 15 (3) Disclosure may be necessary to comply with the official inquiries of the  
16 departments and agencies of the United States government; or
- 17 (4) A court may direct upon its determination that disclosure is necessary for the  
18 conduct of proceedings before it and failure to make such disclosure would be  
19 contrary to the public interest. Nothing in this section shall preclude the disclosure,  
20 upon proper inquiry of the family or friends of a patient, of information as to the  
21 medical condition of the patient.

22 Section 318. KRS 210.240 is amended to read as follows:

23 The secretary of the Cabinet for Health and Family Services is authorized to establish  
24 training schools within the cabinet or within any of the institutions operated by the  
25 cabinet, for the training of necessary personnel for the institutions, or may arrange for the  
26 training of employees or prospective employees in any public or private school or  
27 institution having available facilities for that purpose. Funds of the cabinet may be used to

1 pay salaries to employees, or to pay tuition and subsistence for employees or prospective  
2 employees, while receiving such training. Any employee or prospective employee who is  
3 paid a salary, or for whom tuition and subsistence are furnished, while receiving such  
4 training, shall be required to enter into a contract, prior to receiving such training, that  
5 unless he continues in the employ of the cabinet for at least a period equivalent to the  
6 training period, immediately following the completion of such training, he will reimburse  
7 to the cabinet the sum paid to or for him by the cabinet during the period of training.

8 Section 319. KRS 210.267 is amended to read as follows:

9 The residents of state mental hospitals may manufacture and produce for their own use, or  
10 for sale, such articles, furniture, clothing, tools, products, and other supplies and engage  
11 in such labor or work of construction as may be approved by the Cabinet for Health and  
12 Family Services.

13 Section 320. KRS 210.270 is amended to read as follows:

14 (1) The secretary of the Cabinet for Health and Family Services is authorized to  
15 designate those private homes, private nursing homes, and private institutions that  
16 he deems, after a thorough investigation of the personal and financial qualifications  
17 of the owners and tenants, the facilities and management, and the desirability of the  
18 location of the homes, suitable for the placement of patients, including individuals  
19 with mental illness or mental retardation of all ages, outside of the state mental  
20 hospitals. The secretary of the Cabinet for Health and Family Services may  
21 promulgate, by administrative regulation, standards for the selection and operation  
22 of private homes, private nursing homes, and private institutions designated for the  
23 placement of patients. No home of an officer or employee of the Cabinet for Health  
24 and Family Services or of a member of his immediate family shall be designated  
25 for the placement of patients.

26 (2) Whenever the staff of a state mental hospital has determined that a patient who is  
27 not being held on an order arising out of a criminal offense has sufficiently

1 improved and is not dangerous to himself or other persons, and that it would be in  
2 the patient's best interest to be placed outside of the hospital in a private home or  
3 private nursing home, the hospital shall so certify and authorize the patient to be  
4 transferred to a designated private home or private nursing home for care and  
5 custody for a length of time that the hospital deems advisable.

6 (3) No patient with mental retardation lodged in a state institution may have his level of  
7 care reclassified nor may he be transferred to a private nursing home or other  
8 private institution without first providing ten (10) days' notice by certified mail,  
9 return receipt requested, to the patient's parents or guardian that a reclassification of  
10 the patient's level of care or a transfer in the place of residence is being considered.

11 (4) Any parent or guardian of any patient with mental retardation lodged in a state  
12 institution may participate in any evaluation procedure which may result in a  
13 reclassification of the patient's level of care or in a transfer in the place of residence  
14 of the patient. Participation may include the submission by the parents or guardian  
15 of medical evidence or any other evidence deemed relevant by the parents or  
16 guardian to the possible reclassification or transfer of the patient.

17 (5) If the decision to reclassify or transfer any patient with mental retardation is adverse  
18 to the best interests of the patient as expressed by the parents or guardian, they shall  
19 be given notice by certified mail, return receipt requested, that they are entitled to a  
20 thirty (30) day period from the receipt of such notice to file with the secretary of the  
21 Cabinet for Health and Family Services a notice of appeal and application for a  
22 hearing. Upon receipt of an application for a hearing, a hearing shall be conducted  
23 in accordance with KRS Chapter 13B.

24 (6) The appeal shall be heard by a three (3) member panel composed of a designated  
25 representative of the Cabinet for Health and Family Services, a designated  
26 representative of the state institution where the patient with mental retardation is  
27 presently lodged, and a designated neutral representative appointed by the county

1 judge/executive wherein the institution in question is located. The secretary may  
2 appoint a hearing officer to preside over the conduct of the hearing.

3 (7) Decisions made by the panel may be appealed to the Circuit Court of the county in  
4 which the state institution in question is located, to the Circuit Court of the county  
5 in which either of the parents or guardians or committee of the patient in question is  
6 domiciled at the time of the decision, or to Franklin Circuit Court in accordance  
7 with KRS Chapter 13B.

8 (8) All parents or guardians or committee of a patient with mental retardation lodged in  
9 a state institution shall be fully apprised by the Cabinet for Health and Family  
10 Services of their rights and duties under the provisions of subsections (3), (4), (5),  
11 (6), and (7) of this section.

12 (9) The provisions of KRS 210.700 to 210.760 shall apply to patients transferred to  
13 designated private homes and private nursing homes as though the patients were  
14 residing in a state mental hospital.

15 Section 321. KRS 210.271 is amended to read as follows:

16 (1) No patient in an institution for the mentally ill or the mentally retarded operated by  
17 the Cabinet for Health and Family Services shall be discharged to a boarding home  
18 as defined in KRS 216B.300 unless the boarding home is registered pursuant to  
19 KRS 216B.305.

20 (2) The cabinet shall conduct a quarterly follow-up visit, using cabinet personnel or  
21 through contract with the Regional Community Mental Health Centers, of all  
22 patients of state mental health or mental retardation facilities that are discharged to  
23 boarding homes. Any resident found to have needs that cannot be met by the  
24 boarding home shall be referred to the Department for Community Based Services  
25 for appropriate placement. Any boarding home suspected of operating as an  
26 unlicensed personal care facility or housing residents with needs that cannot be met  
27 by the boarding home shall be reported to the Division of Community Health

1 Services for investigation.

2 Section 322. KRS 210.285 is amended to read as follows:

3 In addition to the specific authority granted by other provisions of KRS Chapters 202A,  
4 202B, and 210, the Cabinet for Health and Family Services shall have authority to  
5 prescribe the form of applications, records, reports, and medical certificates provided for  
6 under KRS Chapters 202A, 202B, and 210 and the information required to be contained  
7 therein; to require reports from the head of any hospital relating to the admission,  
8 examination, diagnosis, release, or discharge of any patient; to visit hospitals regularly to  
9 review the hospitalization procedures of all new patients admitted between visits; to  
10 investigate by personal visit complaints made by any persons on behalf of any patients or  
11 by any patients themselves; and to adopt such rules and regulations not inconsistent with  
12 the provisions of KRS Chapters 202A, 202B, and 210 as it may find to be reasonably  
13 necessary for proper and efficient hospitalization of the mentally ill.

14 Section 323. KRS 210.290 is amended to read as follows:

- 15 (1) The Cabinet for Health and Family Services~~[Families and Children]~~ may be  
16 appointed and act as executor, administrator, guardian, limited guardian,  
17 conservator, or limited conservator as provided in this section. In this capacity the  
18 cabinet may transact business in the same manner as any individual and for this  
19 purpose may sue and be sued in any of the courts of the state. Bond shall not be  
20 required of the cabinet.
- 21 (2) Whenever a resident of the state is adjudged partially disabled or disabled and no  
22 other suitable person or entity is available and willing to act as limited guardian,  
23 guardian, limited conservator, or conservator, the cabinet, acting through its  
24 designated officer, may apply to the District Court of the county in which the  
25 adjudication is made for appointment as limited guardian, guardian, limited  
26 conservator, or conservator for such partially disabled or disabled person.
- 27 (3) Upon the death of a person for whom the cabinet has been appointed guardian or

conservator, or upon the death of a person who has been committed to the cabinet leaving an estate and having no relatives at the time residing within the state, the cabinet may apply for appointment as administrator and upon appointment shall close the administration of the estate.

(4) The cabinet may invest funds held as fiduciary in bonds or other securities guaranteed by the United States, and may sell or exchange such securities in its discretion.

(5) The cabinet shall receive such fees for its fiduciary services as provided by law. These fees shall be placed in a trust and agency account, from which may be drawn expenses for filing fees, court costs, and other expenses incurred in the administration of estates. Claims of the cabinet against the estates shall be considered in the same manner as any other claim.

(6) An officer designated by the secretary may act as legal counsel for any patient in a state mental hospital or institution against whom a suit of any nature has been filed, without being appointed as guardian, limited guardian, conservator, or limited conservator.

(7) Patients hospitalized pursuant to KRS Chapters 202A and 202B who are not adjudged disabled or partially disabled may authorize the Cabinet for Health and Family Services~~[Families and Children]~~ to handle personal funds received by them at the hospital in the same manner as prescribed in subsections (4) and (5) of this section.

Section 324. KRS 210.300 is amended to read as follows:

The secretary of the Cabinet for Health and Family Services shall prescribe from time to time, by regulations, for the designation of hospital districts, for the purpose of determining to which of the state institutions for the mentally ill the persons admitted from each county shall initially be sent.

Section 325. KRS 210.360 is amended to read as follows:

1 (1) When a person who has been twice previously convicted of a felony is indicted by a  
 2 grand jury as a persistent felony offender, the circuit clerk of the court in which he  
 3 is indicted shall give notice of the indictment to the secretary of the Cabinet for  
 4 Health and Family Services within seven (7) days after the indictment is returned  
 5 by the grand jury. The secretary shall cause such person to be examined by a  
 6 psychiatrist or licensed clinical psychologist already in the employ of the cabinet, to  
 7 determine his mental condition and the existence of any mental illness or retardation  
 8 which would affect his criminal responsibility. This examination shall be made  
 9 without expense other than the amount to cover necessary travel, as provided by law  
 10 for any other employee of the state traveling on official business.

11 (2) The psychiatrist or licensed clinical psychologist making the examination shall  
 12 submit a written report of his findings to the judge of the court having jurisdiction,  
 13 who shall make the report available to the prosecuting attorney and the attorney for  
 14 the defendant.

15 (3) The secretary may decline to cause such examination to be made if the number of  
 16 psychiatrists or licensed clinical psychologists on duty in the cabinet is insufficient  
 17 to spare one from his regular official duties, in which event the secretary shall notify  
 18 the clerk of the Circuit Court to that effect within three (3) days.

19 Section 326. KRS 210.365 is amended to read as follows:

20 (1) As used in this section:

21 (a) "Prisoner" has the same meaning as set out in KRS 441.005; and

22 (b) "Qualified mental health professional" has the same meaning as set out in  
 23 KRS 202A.011.

24 (2) The Cabinet for Health and Family Services shall create a telephonic behavioral  
 25 health jail triage system to screen prisoners for mental health risk issues, including  
 26 suicide risk. The triage system shall be designed to give the facility receiving and  
 27 housing the prisoner an assessment of his or her mental health risk, with the

assessment corresponding to recommended protocols for housing, supervision, and care which are designed to mitigate the mental health risks identified by the system.

The triage system shall consist of:

(a) A screening instrument which the personnel of a facility receiving a prisoner shall utilize to assess inmates for mental health, suicide, mental retardation, and acquired brain injury risk factors; and

(b) A continuously available toll-free telephonic triage hotline staffed by a qualified mental health professional which the screening personnel may utilize if the screening instrument indicates an increased mental health risk for the assessed prisoner.

(3) In creating and maintaining the telephonic behavioral health jail triage system, the cabinet shall consult with:

(a) The Department of Corrections;

(b) The Kentucky Jailers Association;

(c) The Kentucky Commission on Services and Supports for Individuals with Mental Illness, Alcohol and Other Drug Abuse Disorders, and Dual Diagnoses; and

(d) The regional community mental health and mental retardation services programs created under KRS 210.370 to 210.460.

(4) The cabinet may delegate all or a portion of the operational responsibility for the triage system to the regional community mental health and mental retardation services programs created under KRS 210.370 to 210.460 if the regional program agrees and the cabinet remains responsible for the costs of delegated functions.

(5) The cabinet shall design into the implemented triage system the ability to screen and assess prisoners who communicate other than in English or who communicate other than through voice.

(6) The cost of operating the telephonic behavioral health jail triage system shall be



1 borne by the cabinet.

2 (7) Records generated under this section shall be treated in the same manner and with  
3 the same degree of confidentiality as other medical records of the prisoner.

4 (8) Unless the prisoner is provided with an attorney during the screening and  
5 assessment, any statement made by the prisoner in the course of the screening or  
6 assessment shall not be admissible in a criminal trial of the prisoner, unless the trial  
7 is for a crime committed during the screening and assessment.

8 (9) The cabinet may, after consultation with those entities set out in subsection (3) of  
9 this section, promulgate administrative regulations for the operation of the  
10 telephonic behavioral health jail triage system and the establishment of its  
11 recommended protocols for prisoner housing, supervision, and care.

12 Section 327. KRS 210.370 is amended to read as follows:

13 Any combination of cities or counties of over fifty thousand (50,000) population, and  
14 upon the consent of the secretary of the Cabinet for Health and Family Services, any  
15 combination of cities or counties with less than fifty thousand (50,000) population, may  
16 establish a regional community mental health and mental retardation services program  
17 and staff same with persons specially trained in psychiatry and related fields. Such  
18 programs and clinics may be administered by a community mental health-mental  
19 retardation board established pursuant to KRS 210.370 to 210.460, or by a nonprofit  
20 corporation.

21 Section 328. KRS 210.400 is amended to read as follows:

22 Subject to the provisions of this section and the policies and regulations of the secretary  
23 of the Cabinet for Health and Family Services, each community mental health-mental  
24 retardation board shall:

25 (1) Review and evaluate mental health and mental retardation services provided  
26 pursuant to KRS 210.370 to 210.460, and report thereon to the secretary of the  
27 Cabinet for Health and Family Services, the administrator of the program, and,

1 when indicated, the public, together with recommendations for additional services  
2 and facilities;

3 (2) Recruit and promote local financial support for the program from private sources  
4 such as community chests, business, industrial and private foundations, voluntary  
5 agencies, and other lawful sources, and promote public support for municipal and  
6 county appropriations;

7 (3) Promote, arrange, and implement working agreements with other social service  
8 agencies, both public and private, and with other educational and judicial agencies;

9 (4) Adopt and implement policies to stimulate effective community relations;

10 (5) Be responsible for the development and approval of an annual plan and budget;

11 (6) Act as the administrative authority of the community mental health and mental  
12 retardation program; and

13 (7) Oversee and be responsible for the management of the community mental health  
14 and mental retardation program in accordance with the plan and budget adopted by  
15 the board and the policies and regulations issued under KRS 210.370 to 210.480 by  
16 the secretary of the Cabinet for Health and Family Services.

17 Section 329. KRS 210.405 is amended to read as follows:

18 (1) Any regional community mental health-mental retardation board established  
19 pursuant to KRS 210.380 and recognized by the secretary of the Cabinet for Health  
20 and Family Services may be appointed and act as executor, administrator, guardian,  
21 limited guardian, conservator, or limited conservator, as provided in this section. In  
22 this capacity, the board may transact business in the same manner as any individual  
23 and for this purpose may sue and be sued in any of the courts of the state. Bond  
24 shall not be required of the board.

25 (2) Whenever a person who has been adjudged mentally disabled and requires mental  
26 health services has no guardian or conservator, the board, acting through its  
27 designated officer, may apply to the District Court of the county in which the

1 adjudication was made for its appointment as guardian or conservator for such  
 2 mentally disabled person. The board may also apply to be substituted as guardian or  
 3 conservator for a mentally disabled person whose guardian or conservator is the  
 4 Cabinet for **Health and Family Services**~~[Families and Children]~~ and who has been  
 5 discharged or whose discharge is imminent from a Cabinet for Health **and Family**  
 6 Services facility.

7 (3) Upon the death of a person for whom the board has been appointed guardian or  
 8 conservator leaving an estate and having no relatives at the time residing within the  
 9 state, the board may apply for appointment as administrator and upon appointment  
 10 shall close the administration of the estate.

11 (4) The board may invest funds held as fiduciary in bonds or other securities guaranteed  
 12 by the United States, and may sell or exchange such securities in its discretion.

13 (5) The board shall receive such fees for its fiduciary services as provided by law.  
 14 These fees shall be placed in a trust and agency account, from which may be drawn  
 15 expenses for filing fees, court costs, and other expenses incurred in the  
 16 administration of estates. Claims of the board against the estates shall be considered  
 17 in the same manner as any other claim.

18 Section 330. KRS 210.410 is amended to read as follows:

19 (1) The secretary of the Cabinet for Health **and Family** Services is hereby authorized to  
 20 make state grants and other fund allocations from the Cabinet for Health **and**  
 21 **Family** Services to assist any combination of cities and counties, or nonprofit  
 22 corporations in the establishment and operation of regional community mental  
 23 health and mental retardation programs which shall provide at least the following  
 24 services:

- 25 (a) Inpatient services;
- 26 (b) Outpatient services;
- 27 (c) Partial hospitalization or psychosocial rehabilitation services;

- (d) Emergency services;
- (e) Consultation and education services; and
- (f) Mental retardation services.

(2) The services required in subsection (1)(a), (b), (c), (d), and (e) of this section shall be available to the mentally ill, drug abusers and alcohol abusers, and all age groups including children and the elderly. The services required in subsection (1)(a), (b), (c), (d), (e), and (f) shall be available to the mentally retarded. The services required in subsection (1)(b) of this section shall be available to any child age sixteen (16) or older upon request of such child without the consent of a parent or legal guardian, if the matter for which the services are sought involves alleged physical or sexual abuse by a parent or guardian whose consent would otherwise be required.

Section 331. KRS 210.420 is amended to read as follows:

(1) Except as hereinafter provided, grants from state general funds for any program shall not exceed fifty percent (50%) of the total expenditures for:

- (a) Salaries;
- (b) Contract facilities and services;
- (c) Operation, maintenance, and service costs;
- (d) Per diem and travel expenses for members of the community mental health-mental retardation boards; and
- (e) Other expenditures specifically approved by the secretary for health and family services.

No grants from state general funds shall be made for capital expenditures. Grants from state general funds may be made for expenditures for mental health and mental retardation services whether provided by operation of a local facility or through contract with other public or private agencies.

(2) The secretary of the Cabinet for Health and Family Services shall distribute to community mental health-mental retardation boards those general funds

1 appropriated to the cabinet for the operation of regional community mental health-  
2 mental retardation programs. This distribution shall be by a formula which includes  
3 provisions for:

- 4 (a) Per capita allocations;
- 5 (b) Incentive allocations which require local matching funds based on the per  
6 capita wealth of the area served; and
- 7 (c) Discretionary allocations to be available to the secretary to maintain essential  
8 services pursuant to KRS 210.410.

9 The formula for allocation of community mental health-mental retardation program  
10 general funds shall be prescribed by administrative regulations.

11 Section 332. KRS 210.430 is amended to read as follows:

12 Any community mental health-mental retardation board or nonprofit corporation  
13 administering a mental health and mental retardation services program may apply for the  
14 assistance provided by KRS 210.370 to 210.460 by submitting annually to the secretary  
15 of the Cabinet for Health and Family Services its plan, budget, and membership of the  
16 board for the next fiscal year. No program shall be eligible for a state grant and other fund  
17 allocations from the Cabinet for Health and Family Services hereunder unless its plan  
18 and budget have been approved by the secretary of the Cabinet for Health and Family  
19 Services, and no program shall be eligible for a state grant and other fund allocations  
20 from the Cabinet for Health and Family Services hereunder unless the board composition  
21 is reasonably representative of those groups enumerated in KRS 210.380.

22 Section 333. KRS 210.440 is amended to read as follows:

- 23 (1) At the beginning of each fiscal year, the secretary of the Cabinet for Health and  
24 Family Services shall allocate available funds to the mental health-mental  
25 retardation boards or nonprofit organizations for disbursement during the fiscal year  
26 in accordance with approved plans and budgets. The secretary shall, from time to  
27 time during the fiscal year, review the operations, budgets, and expenditures of the

1 various programs; and if funds are not needed for a program to which they were  
2 allocated, he may, after reasonable notice and opportunity for hearing, withdraw any  
3 funds that are unencumbered and reallocate them to other programs. He may  
4 withdraw funds from any program, or component part thereof, which is not being  
5 operated and administered in accordance with its approved plan and budget, and the  
6 policies and administrative regulations of the cabinet promulgated pursuant to KRS  
7 210.370 to 210.480.

8 (2) If the secretary finds at any time that a mental health-mental retardation board or  
9 nonprofit organization to which funds have been allocated for the operation of a  
10 regional community mental health and mental retardation program is not operating  
11 and administering its program in compliance and accordance with the approved plan  
12 and budget and the policies and administrative regulations of the cabinet, he may  
13 withdraw his recognition of that board or organization as the local authority for the  
14 receipt of funds and the operation and administration of regional community mental  
15 health and mental retardation programs.

16 (3) If the secretary finds at any time that an emergency situation exists with regard to  
17 the financial stability of any regional mental health-mental retardation board or  
18 nonprofit organization, which jeopardizes the continuation of programs and  
19 provision of services in the area served by that board or nonprofit organization, he  
20 may, other statutes to the contrary notwithstanding:

21 (a) Appoint a caretaker administrator who shall be authorized to direct the  
22 operation and administration of the board or nonprofit organization's  
23 community mental health and mental retardation programs including, but not  
24 limited to, their financial record keeping, their personnel management  
25 operations, and their financial and program reporting; and

26 (b) Make personnel changes deemed necessary to insure the continued operation  
27 of the board or nonprofit organization in compliance with its plan and budget

1 and the policies and regulations of the cabinet.

2 (4) Any community mental health-mental retardation board to be affected by the  
 3 provisions of subsections (2) and (3) of this section shall be notified by the secretary  
 4 of the Cabinet for Health and Family Services thirty (30) days prior to the  
 5 anticipated action by the secretary. The notification shall be by means of a letter  
 6 from the secretary to the chairman of the mental health-mental retardation board in  
 7 question and shall state the reasons for the anticipated action. Following the  
 8 notification, the mental health-mental retardation board may:

- 9 (a) Comply with the secretary's action without contesting it; or
- 10 (b) Request an administrative hearing before a hearing officer appointed by the  
 11 secretary to show cause why the action should not stand. The application shall  
 12 be made within seven (7) days of the receipt of the letter from the secretary,  
 13 and the hearing shall be conducted in accordance with KRS Chapter 13B.

14 Section 334. KRS 210.450 is amended to read as follows:

15 In addition to the powers and duties already conferred upon him by the law, the secretary  
 16 of the Cabinet for Health and Family Services shall:

- 17 (1) Promulgate policies and regulations governing eligibility of community mental  
 18 health and mental retardation programs to receive state grants and other fund  
 19 allocations from the Cabinet for Health and Family Services, prescribing standards  
 20 for qualification of personnel and quality of professional service and for in-service  
 21 training and educational leave programs for personnel, governing eligibility for  
 22 service so that no person will be denied service on the basis of race, color or creed,  
 23 or inability to pay, providing for establishment of fee schedules which shall be  
 24 based upon ability to pay, regulating fees for diagnostic services, which services  
 25 may be provided for anyone without regard to his financial status, when referred by  
 26 the courts, schools, or health and welfare agencies whether public or private,  
 27 governing financial record keeping, prescribing standards for personnel

management operations, providing for financial and program reporting requirements, and such other policies and regulations as he deems necessary to carry out the purposes of KRS 210.370 to 210.460;

(2) Review and evaluate local programs and the performance of administrative and psychiatric personnel and make recommendations thereon to community mental health-mental retardation boards and program administrators;

(3) Provide consultative service, by mental health and mental retardation professionals qualified by education and training, to communities to assist in ascertaining local needs and in planning and establishing community mental health and mental retardation programs;

(4) Employ necessary and qualified personnel to implement KRS 210.370 to 210.460; and

(5) Review annually the community mental health-mental retardation boards' personnel policies, procedures, and personnel compensation plans and disapprove if not consistent with accepted standards of personnel and salary administration prescribed by the cabinet.

Section 335. KRS 210.470 is amended to read as follows:

(1) It is the intent of this section to create a mental health and mental retardation taxing district by operation of law in each county coming under the provisions of KRS 210.370 to 210.460, in order to implement KRS 210.460.

(2) In all counties which have participated in the establishment of a regional community mental health and mental retardation services program under KRS 210.380, a mental health and mental retardation taxing district is hereby declared to be created.

(3) The members of the community mental health-mental retardation board recognized by the secretary for health and family services pursuant to KRS 210.380 shall, by virtue of their office, constitute and be the governing board of the mental health and



1        mental retardation taxing district and shall perform the duties attendant thereto in  
2        addition to their duties as members of the community mental health-mental  
3        retardation board. Officers of the community mental health-mental retardation  
4        board shall be the officers of the mental health and mental retardation taxing  
5        district.

6        Section 336. KRS 210.480 is amended to read as follows:

- 7        (1) If, after the establishment of the mental health and mental retardation taxing district  
8        as provided for in this section, KRS 210.460, and KRS 210.470, the tax levying  
9        authorities in member areas of the district, in the opinion of the community mental  
10       health-mental retardation board, do not appropriate an amount sufficient to meet the  
11       needs of the mental health and mental retardation services program and clinic, as  
12       established pursuant to KRS 210.370, the community mental health-mental  
13       retardation board, acting as the governing body of the taxing district shall, with the  
14       approval of the Cabinet for Health and Family Services, request the fiscal courts in  
15       each of the member areas which have not contributed a sufficient proportionate  
16       share of the cost of the program, to impose a special ad valorem mental health and  
17       mental retardation tax in such amount that it deems sufficient, but not in excess of  
18       four cents (\$0.04) per one hundred dollars (\$100) of full assessed valuation. The  
19       fiscal court may, upon receipt of a duly certified copy of said request, include in the  
20       next ad valorem tax levy said special mental health and mental retardation tax  
21       imposed by the mental health-mental retardation board which shall be in addition to  
22       all other county ad valorem taxes. If levied by the fiscal court, said special mental  
23       health and mental retardation tax shall be collected in the same manner as are other  
24       county ad valorem taxes and turned over to the community mental health-mental  
25       retardation board to be used for the maintenance and operation of the mental health  
26       and mental retardation services program and clinic as provided in KRS 210.460. No  
27       appropriation for a mental health and mental retardation services program and clinic

established under KRS 210.370 shall be reduced or eliminated on the grounds that a special tax has been levied where the community mental health-mental retardation board requested the amount levied as a necessary supplement to that appropriation. Taxing districts organized pursuant to KRS 210.470 shall not be subject to the provisions of the compensating tax rate as defined by KRS 132.010 nor to Acts 1965 (1st Ex. Sess.), ch. 2.

- (2) Nothing contained in this section shall be construed as precluding any city or county from appropriating or allocating funds in any other manner for the support of the regional mental health and mental retardation services program and clinic, pursuant to KRS 210.460, or any other statutory provision.

Section 337. KRS 210.710 is amended to read as follows:

- (1) "Cabinet" means the Cabinet for Health and Family Services.
- (2) "Facility" means a hospital or other institution operated or utilized by the cabinet for the mentally ill, mentally retarded or respiratory disease patients.
- (3) "Homestead" means a place where a family makes its home including the land, house and furnishings, outbuildings, vehicles, and tools of the trade formerly occupied by the patient which is exempted by KRS 210.710 to 210.760 from liability to meet patient charges for services rendered in a facility.
- (4) "Means test" means a uniform method adopted by the secretary for determining the ability to pay of the patient or person responsible for the patient for board, maintenance and treatment at a facility operated or utilized by the cabinet.
- (5) "Person responsible for the patient" includes parents, spouses, guardians, and committees within the scope of their fiduciary duties.
- (6) "Secretary" means the secretary of the Cabinet for Health and Family Services.

Section 338. KRS 211.015 is amended to read as follows:

- (1) As used in KRS 211.005 to 211.380, unless the context requires otherwise:
- (a) "Cabinet" means the Cabinet for Health and Family Services;

1 (b) "Farmstead" means a farm dwelling, together with other farm buildings and  
 2 structures incident to the operation and maintenance of the farm, situated on  
 3 ten (10) contiguous acres or more of land outside the corporate limits of a  
 4 municipality:

- 5 1. Used for the production of livestock, livestock products, poultry, poultry  
 6 products, dairy, dairy products, or horticulture products or for the  
 7 growing of crops such as, but not limited to, tobacco, corn, soybeans,  
 8 and wheat; or
- 9 2. Where devoted to and meeting the requirements and qualifications for  
 10 payments pursuant to agriculture programs under an agreement with the  
 11 state or federal government;

12 (c) "Secretary" means the secretary of the Cabinet for Health and Family  
 13 Services; and

14 (d) "Private water supply" means a residential water supply located on private  
 15 property under the control of a person holding a possessory interest in the  
 16 property, the use of which is limited to family members.

17 (2) As used in KRS 200.560 and 200.550, unless the context otherwise requires:

18 (a) "Department" means Department for Public Health;

19 (b) "Commissioner" means the commissioner of the Department for Public  
 20 Health;

21 (c) "Committee" means the Hemophilia Advisory Committee; and

22 (d) "Hemophilia" means a bleeding disorder resulting from a genetically  
 23 determined deficiency factor in the blood, or hereditarily resulting in an  
 24 abnormal or deficient plasma procoagulant.

25 Section 339. KRS 211.027 is amended to read as follows:

26 The Cabinet for Health and Family Services shall promulgate reasonable rules and  
 27 regulations to effectuate the purposes of KRS 213.101 and 213.106 and KRS 311.710 to

311.810, which shall be submitted to the Legislative Research Commission in a manner prescribed in KRS Chapter 13A; the Legislative Research Commission shall refer said rules and regulations to the Interim Committee on Health and Welfare for the purpose of approval or disapproval.

Section 340. KRS 211.130 is amended to read as follows:

As used in KRS 211.130 to 211.160, unless the context requires otherwise:

- (1) "Cabinet" shall mean the Cabinet for Health and Family Services;
- (2) "Secretary" shall mean the secretary for health and family services;
- (3) "An individual with a severe physical disability" shall mean a person who has a severe physical disability as a result of cerebral palsy, poliomyelitis, muscular dystrophy, or spina bifida;
- (4) "Educable person" shall mean an individual with a severe physical disability, as defined above, who is determined by the cabinet to be capable of receiving and benefiting from the services and facilities provided by KRS 211.130 to 211.160;
- (5) "Funds" shall mean all moneys received by the cabinet from all persons, corporations, associations, organizations, and state or federal government agencies, specifically designated to be used for furnishing facilities and services for educable persons; provided, however, that no moneys appropriated to the cabinet by the General Assembly of this Commonwealth shall be considered to have been appropriated for establishing, providing, or maintaining services or facilities for educable persons, unless the act appropriating such moneys expressly so provides.

Section 341. KRS 211.160 is amended to read as follows:

- (1) The secretary for health and family services may, from the funds available, employ, by contract or otherwise such medical, clinical, technical, and other personnel that he deems necessary to effectuate the purposes of KRS 211.130 to 211.160, and fix and pay their compensation and necessary traveling expenses.
- (2) The secretary for health and family services may, from the funds available, procure,

1 by purchase or lease or otherwise, such property, equipment, services, facilities, and  
2 supplies that he deems necessary to effectuate the purposes of KRS 211.130 to  
3 211.160.

4 (3) The secretary for health and family services is authorized to accept, on behalf of the  
5 Commonwealth of Kentucky, all gifts, donations, contributions, grants, devises,  
6 bequests, and conveyances of real and personal property for establishing, providing,  
7 and maintaining the services and facilities described in KRS 211.150, subject only  
8 to the condition that same shall be devoted to and used for said purposes. All funds  
9 received by the secretary for health and family services shall be deposited in the  
10 State Treasury and credited to a trust and agency fund account and expended only  
11 for purposes authorized by KRS 211.130 to 211.160.

12 (4) The secretary for health and family services may make and issue all necessary rules  
13 and regulations to carry out KRS 211.130 to 211.160; provided, however, that no  
14 educable person shall be eligible for any benefits hereunder unless he is, and has  
15 been continuously for at least twelve (12) months immediately preceding the date of  
16 his application therefor, an actual resident of this state.

17 (5) The secretary for health and family services may delegate to any division of the  
18 cabinet, or to any director thereof, any and all of his authority and duties hereunder.

19 (6) Upon request of the secretary for health and family services, approved in writing by  
20 the Governor, any cabinet, agency, or commission of the Commonwealth shall  
21 furnish without cost to the cabinet such services, facilities, and assistance as are  
22 available and, in the judgment of the secretary for health and family services and  
23 the Governor, required, to effectuate the purposes of KRS 211.130 to 211.160 or its  
24 administration which is hereby vested in the cabinet.

25 Section 342. KRS 211.165 is amended to read as follows:

26 The Cabinet for Health and Family Services shall establish a loan repayment program to  
27 repay educational loans for primary health-care professionals who agree to serve in

- 1 federally designated health professional shortage areas. The program shall:
- 2 (1) Apply for federal funds for the program under the Public Health Service Act (42
  - 3 U.S.C. sec. 254g-1);
  - 4 (2) Make payments of qualifying educational loans of health professionals agreeing to
  - 5 provide primary health services in federally designated health professional shortage
  - 6 areas;
  - 7 (3) Assign health professionals only to public and private nonprofit entities;
  - 8 (4) Enter into contracts with participants with remedies for breach of contract by the
  - 9 health professional; and
  - 10 (5) Make available nonfederal contributions towards contracts with individual health
  - 11 professionals in an amount not less than one dollar (\$1) for each one dollar (\$1) of
  - 12 federal funds provided. In meeting this matching fund requirement, the state shall
  - 13 provide fifty percent (50%) of the state's share from state funds, and the remaining
  - 14 fifty percent (50%) shall be provided from local governments or other community-
  - 15 based resources from the area in which the health professional will be serving.

16 Section 343. KRS 211.1751 is amended to read as follows:

17 As used in KRS 211.1751 to 211.1755:

- 18 (1) "Agency" means a local health department established pursuant to the provisions of
- 19 KRS Chapter 212, excluding a health department in a county containing a city of
- 20 the first class, a consolidated local government, an urban-county health department,
- 21 or an independent district health department.
- 22 (2) "Classification plan" means the system of classes and job descriptions, and the
- 23 process for the installation and maintenance of the classification plan.
- 24 (3) "Compensation plan" means a series of salary ranges to which classes of positions
- 25 are assigned so that classifications evaluated as approximately equal may be
- 26 assigned to the same salary range.
- 27 (4) "Council" means the Local Health Department Employment Personnel Council

1 created in KRS 211.1752.

2 (5) "Department" means the Department for Public Health within the Cabinet for  
3 Health and Family Services.

4 Section 344. KRS 211.1752 is amended to read as follows:

5 (1) The Local Health Department Employment Personnel Council is hereby created. :  
6 The council shall be composed of five (5) members appointed by the secretary for  
7 health and family services. :

8 (2) Members of the council shall serve for a term of three (3) years or until successors  
9 are appointed, except that for members of the initially appointed council, two (2)  
10 members shall be appointed for one (1) year, two (2) members shall be appointed  
11 for two (2) years, and one (1) member shall be appointed for three (3) years. A  
12 member appointed to fill a vacancy occurring prior to the expiration of the term  
13 shall be appointed for the remainder of the term.

14 (3) The council shall elect a chairperson from its membership. Regular meetings of the  
15 council shall be held at least semiannually. Special meetings of the council may be  
16 held upon call of the chairperson or the department.

17 (4) The council shall be attached to the department for administrative purposes.

18 (5) The council shall:

19 (a) Advise the cabinet on administration of the local health department personnel  
20 program pursuant to KRS Chapter 212; :

21 (b) Hear appeals from: :

22 1. Applicants for positions for which examinations are being or have been  
23 conducted;

24 2. Eligible applicants on examination registers; and

25 3. Classified employees who have been dismissed, demoted, or suspended  
26 for cause;

27 (c) Hear appeals regarding discrimination in a personnel action involving an

1 agency employee or an applicant for employment;

2 (d) Make an annual report to the department and agency; and

3 (e) Consider and act upon matters that may be referred to the council by the  
4 department.

5 Section 345. KRS 211.180 is amended to read as follows:

6 (1) The cabinet shall enforce the administrative regulations promulgated by the  
7 secretary of the Cabinet for Health and Family Services for the regulation and  
8 control of the matters set out below and shall formulate, promote, establish, and  
9 execute policies, plans, and programs relating to all matters of public health,  
10 including but not limited to the following matters:

11 (a) Detection, prevention, and control of communicable diseases, chronic and  
12 degenerative diseases, dental diseases and abnormalities, occupational  
13 diseases and health hazards peculiar to industry, home accidents and health  
14 hazards, animal diseases which are transmissible to man, and other diseases  
15 and health hazards that may be controlled;

16 (b) The adoption of regulations specifying the information required in and a  
17 minimum time period for reporting a sexually transmitted disease. In adopting  
18 the regulations the cabinet shall consider the need for information, protection  
19 for the privacy and confidentiality of the patient, and the practical ability of  
20 persons and laboratories to report in a reasonable fashion. The cabinet shall  
21 require reporting of physician-diagnosed cases of acquired immunodeficiency  
22 syndrome based upon diagnostic criteria from the Centers for Disease Control  
23 and Prevention of the United States Public Health Service. No later than  
24 October 1, 2004, the cabinet shall require reporting of cases of human  
25 immunodeficiency virus infection by reporting of the name and other relevant  
26 data as requested by the Centers for Disease Control and Prevention and as  
27 further specified in KRS 214.645. Nothing in this section shall be construed to



1 prohibit the cabinet from identifying infected patients when and if an effective  
 2 cure for human immunodeficiency virus infection or any immunosuppression  
 3 caused by human immunodeficiency virus is found or a treatment which  
 4 would render a person noninfectious is found, for the purposes of offering or  
 5 making the cure or treatment known to the patient;

6 (c) The control of insects, rodents, and other vectors of disease; the safe handling  
 7 of food and food products; the safety of cosmetics; the control of narcotics,  
 8 barbiturates, and other drugs as provided by law; the sanitation of schools,  
 9 industrial establishments, and other public and semipublic buildings; the  
 10 sanitation of state and county fairs and other similar public gatherings; the  
 11 sanitation of public and semipublic recreational areas; the sanitation of public  
 12 rest rooms, trailer courts, hotels, tourist courts, and other establishments  
 13 furnishing public sleeping accommodations; the review, approval, or  
 14 disapproval of plans for construction, modification, or extension of equipment  
 15 related to food-handling in food-handling establishments; the licensure of  
 16 hospitals; and the control of such other factors, not assigned by law to another  
 17 agency, as may be necessary to insure a safe and sanitary environment;

18 (d) The construction, installation, and alteration of any on-site sewage disposal  
 19 system, except for a system with a surface discharge;

20 (e) Protection and improvement of the health of expectant mothers, infants,  
 21 preschool, and school-age children;

22 (f) The practice of midwifery, including the issuance of permits to and  
 23 supervision of women who practice midwifery; and

24 (g) Protection and improvement of the health of the people through better  
 25 nutrition.

26 (2) The secretary shall have authority to establish by regulation a schedule of  
 27 reasonable fees, not to exceed twenty dollars (\$20) per inspector hour plus travel

costs pursuant to state regulations for travel reimbursement, to cover the costs of inspections of manufacturers, retailers, and distributors of consumer products as defined in the Federal Consumer Product Safety Act, 15 U.S.C. secs. 2051 et seq.; 86 Stat. 1207 et seq. or amendments thereto, and of youth camps for the purpose of determining compliance with the provisions of this section and the regulations adopted by the secretary pursuant thereto. Fees collected by the secretary shall be deposited in the State Treasury and credited to a revolving fund account for the purpose of carrying out the provisions of this section. The balance of the account shall lapse to the general fund at the end of each biennium.

- (3) Any administrative hearing conducted under authority of this section shall be conducted in accordance with KRS Chapter 13B.

Section 346. KRS 211.184 is amended to read as follows:

- (1) It shall be the duty of the cabinet to enforce the provisions of KRS 211.182, and for that purpose the investigators, inspectors, representatives, and agents of the secretary of the Cabinet for Health and Family Services and the cabinet shall have the full power and authority of peace officers in this state, and shall have the power and authority to administer oaths, to enter upon premises at all times for the purpose of making inspections, to seize evidence, to interrogate all persons, and to require the production of books, papers, documents, or other evidence.

- (2) The secretary of the Cabinet for Health and Family Services may institute, in his own name, proceedings to enjoin and restrain violations of KRS 211.182, regardless of whether the defendant has been convicted of violation of the penal provisions thereof, and shall not be required to pay any costs or filing fees or furnish any bond in connection therewith. Violation of injunctions and restraining orders shall be punished as a contempt without the intervention of a jury.

Section 347. KRS 211.190 is amended to read as follows:

The cabinet shall provide public health services including:

- 1 (1) Administrative, consultative, technical, professional, and other services needed to  
2 assist local health departments in the effective maintenance and operation of their  
3 departments;
- 4 (2) Administrative, investigative, and clerical services required by the secretary of the  
5 Cabinet for Health and Family Services, and may upon request provide these  
6 services to any other agency of this Commonwealth authorized to control the  
7 practice of any other healing art;
- 8 (3) Administration of grants, gifts, or contributions from the federal government, or  
9 from other sources, for the purpose of carrying out the provisions of Pub. L. No.  
10 725 (79th Congress, 2nd Session, chapter 958), or any other acts for the same or  
11 similar purposes;
- 12 (4) Central registrations of births, deaths, and other vital records and the furnishing of  
13 copies thereof to the general public in the manner prescribed by law;
- 14 (5) Statistical services, including the compilation, analysis, and maintenance of  
15 statistics on matters related to public health, and may provide these services to  
16 organizations and persons interested in public health;
- 17 (6) Education of the public concerning all matters relating to health, including the  
18 publication and dissemination of health information, and the stimulation of citizen  
19 support for the promotion and maintenance of high standards of public health  
20 throughout the Commonwealth;
- 21 (7) Survey and study of the needs of medical and hospital facilities in the interest of the  
22 health of the general public;
- 23 (8) Establishment, maintenance, and operation of public health laboratories and such  
24 branches thereof as may be needed;
- 25 (9) Establishment, maintenance, and operation of training facilities and schools for  
26 employees of the cabinet and of local health departments;
- 27 (10) Tabulating, duplicating, and other ancillary services as are necessary to the

operation of the cabinet, including the keeping of adequate financial, personnel, and other records; and

(11) Establishment, maintenance, monitoring, and enforcement of water fluoridation programs for the protection of dental health.

Section 348. KRS 211.200 is amended to read as follows:

Whenever, in the opinion of the secretary for health and family services, a public health emergency exists in any county, or whenever any county fails to establish, maintain, and operate a local health department therein meeting the standards prescribed by the cabinet, the cabinet may assign to said county such of its own personnel as may be designated by the secretary for health and family services. Such personnel so assigned shall have the full power and authority of local health department employees in addition to their power and authority as representatives of the cabinet. Whenever such assignment results by reason of the lack of a local health department or of a local health department meeting the standards prescribed by the cabinet, any funds appropriated or allocated to the local health department by either the Commonwealth or the federal government may be used to reimburse the cabinet.

Section 349. KRS 211.215 is amended to read as follows:

(1) The Cabinet for Health and Family Services shall operate a program for the decontamination of bird roosts.

(2) Prior to the decontamination of a bird roost, the cabinet shall, at a minimum, make the following determinations:

(a) The bird roost has tested positive to the presence of histoplasma capsulatum;

(b) The bird roost presents a potential health hazard;

(c) The landowner has requested in writing to the cabinet that the cabinet have the land area associated with the bird roost decontaminated; and

(d) That there are sufficient state funds to pay for the decontamination of the area, including any assistance which may be given by local governmental units,

1 volunteer fire departments, or other organizations.

2 (3) If one (1) or more of the determinations made by the cabinet in subsection (2) of  
3 this section is made in the negative, the bird roost shall not be decontaminated by  
4 the cabinet.

5 (4) The cabinet shall ensure that the decontamination of a bird roost is conducted in a  
6 safe manner.

7 (5) The cabinet may secure the services of local governmental units, volunteer fire  
8 departments, or other organizations as long as they are qualified to conduct the  
9 decontamination in a safe manner.

10 (6) The cabinet may issue administrative regulations to implement this section.

11 Section 350. KRS 211.220 is amended to read as follows:

12 For the purposes of enforcing the public health laws of the Commonwealth, investigators,  
13 inspectors, officers, representatives, and agents of the cabinet may enter upon any  
14 premises when necessary for the purpose of making inspections and investigations, and  
15 may view evidence and interrogate persons, to the extent required in the performance of  
16 their duties and responsibilities. The secretary of the Cabinet for Health and Family  
17 Services may issue subpoenas, subpoenas duces tecum, and all necessary process in  
18 proceedings brought before or initiated by the cabinet, and such process shall extend to all  
19 parts of the Commonwealth. Service of process may be made by certified mail, return  
20 receipt requested, or in the manner prescribed by the Rules of Civil Procedure. Nothing in  
21 this section shall be construed to authorize the cabinet to regulate the practice of any  
22 healing art where the licensure, regulation, and control of same has been conferred by  
23 statute upon some other agency of the state.

24 Section 351. KRS 211.230 is amended to read as follows:

25 In case of a failure on the part of any person, firm, or corporation to comply with any  
26 lawful order of the Cabinet for Health and Family Services, or with process or in case of  
27 the refusal of any witness to testify concerning any matter on which he may be lawfully

1 interrogated, the Circuit Court, or a judge thereof, having jurisdiction may, on application  
2 of the Cabinet for Health and Family Services or the secretary of the Cabinet for Health  
3 and Family Services, compel obedience by proceedings as in contempt cases.

4 Section 352. KRS 211.285 is amended to read as follows:

5 (1) There is hereby created the "Malt Beverage Educational Fund" which shall provide  
6 moneys on a matching basis for educational information and materials that deter or  
7 eliminate underage drinking. The fund shall consist of moneys generated from one  
8 percent (1%) of the excise tax collected from the sale and distribution of malt  
9 beverages under KRS 243.720 and one percent (1%) of the wholesale tax collected  
10 from distributors of malt beverages under KRS 243.884.

11 (2) The "Malt Beverage Educational Fund" shall be established in the State Treasury as  
12 a trust and revolving account under KRS 45.253. Moneys in the account shall be  
13 distributed by the State Treasurer to the Malt Beverage Educational Corporation, a  
14 nonprofit organization that is organized under the laws of this state, upon the  
15 authorization of the secretary of the Cabinet for Health and Family Services. The  
16 moneys shall be awarded to the corporation solely to fund educational programs to  
17 deter or eliminate underage drinking.

18 (3) The secretary of the Cabinet for Health and Family Services shall authorize that  
19 moneys from the fund be disbursed to the corporation upon the secretary's receipt of  
20 a certification from the corporation showing the moneys the corporation has  
21 received from malt beverage distributors and other private sources since the last  
22 certification. The moneys disbursed from the fund shall be equal to the  
23 contributions that the corporation has received from its members and other private  
24 sources during that period. The moneys in the fund shall be disbursed in accordance  
25 with a schedule established by the secretary, and shall be disbursed until the moneys  
26 in the fund are exhausted or until the moneys in the fund lapse in accordance with  
27 subsection (4) of this section, whichever comes first.

- 1 (4) Moneys that are credited to the fund and not issued to the corporation shall lapse at  
2 the end of the fiscal year and shall be returned to the general fund.
- 3 (5) As a condition of receiving the governmental funds, the corporation's board of  
4 directors shall include the following among its directors:
  - 5 (a) The Governor or his or her designee;
  - 6 (b) The Attorney General or his or her designee;
  - 7 (c) The President of the Senate or his or her designee;
  - 8 (d) The Speaker of the House or his or her designee;
  - 9 (e) The secretary of the Cabinet for Health **and Family** Services or his or her  
10 designee; and
  - 11 (f) The commissioner of the Department of Alcoholic Beverage Control or his or  
12 her designee.
- 13 (6) All expenditures of moneys from the fund shall be approved by a majority of those  
14 persons set out in subsection (5)(a) to (f) of this section. If the moneys from the  
15 fund are not expended in their entirety, any moneys that remain unused by the  
16 corporation at the end of the fiscal year shall be returned to the general fund.
- 17 (7) Any moneys from the fund that are not expended shall be returned to the general  
18 fund upon the dissolution of the corporation.
- 19 (8) Any high school in the Commonwealth of Kentucky that was registered with the  
20 Department of Education as of July 1, 1997, may make an application to the Malt  
21 Beverage Education Corporation by February 28 of each year and shall be granted a  
22 minimum of five hundred dollars (\$500) annually from the funds contributed by the  
23 Malt Beverage Educational Fund for the single purpose of supporting "Project  
24 Graduation" events.

25 Section 353. KRS 211.345 is amended to read as follows:

26 The Department for Public Health in the Cabinet for Health **and Family** Services shall  
27 establish a program for testing, upon request of the owner or user of the water supply,

private water supplies for bacterial and chemical contamination, and for educating the public about proper siting and drilling of wells and treatment of wells and other private water supplies. The program shall consist of the following elements:

- (1) The development of policies, in conjunction with the Natural Resources and Environmental Protection Cabinet, for testing private water supplies and using relevant information in a groundwater database;
- (2) The development of a data collection system, in conjunction with the Natural Resources and Environmental Protection Cabinet, which shall contain the results of water sample tests and information on well location sufficient to locate the wells on an official map;
- (3) The development of a private water supply user's manual to be made available to the public; and
- (4) The development of a technical assistance program for private water supply users.

Section 354. KRS 211.355 is amended to read as follows:

- (1) Any local board of health authorized to serve as agent of the Cabinet for Health and Family Services for the issuance of permits for on-site sewage disposal systems may set a schedule of fees reasonably related to the cost of administering programs including:
  - (a) Inspections incidental to construction, installation, and alteration of on-site sewage disposal systems; and
  - (b) Inspections incidental to maintenance and operation of on-site sewage disposal systems.
- (2) Such fees shall be designed to fully cover the cost of the services but shall not exceed the cost of the services performed. Fees payable to the board shall be used by the board only for the administration of said program.
- (3) Nothing in this section shall authorize or allow the cabinet to inspect any on-site sewage disposal system constructed prior to July 15, 1986, unless such inspection is



1 deemed necessary due to receipt of a complaint by the cabinet or the local health  
2 department. In such an instance, the cabinet shall document or shall require the local  
3 health department to document the source and nature of such complaint.

4 Section 355. KRS 211.357 is amended to read as follows:

5 (1) The cabinet shall establish a program to certify persons as installers of on-site  
6 sewage disposal systems. A master plumber licensed pursuant to KRS Chapter 318  
7 or a person who provides written verification from the local health department in  
8 the county in which the work was completed that he installed five (5) lateral fields  
9 and septic tank systems prior to July 13, 1984, and that these installations had been  
10 inspected by a certified inspector and passed inspection, shall be certified  
11 automatically.

12 (2) The cabinet shall establish as a part of the certification program referenced in  
13 subsection (1) of this section a means of issuing a probationary certification for  
14 installers of on-site sewage disposal systems. This probationary certification shall  
15 automatically be converted to a full certification at the time that the holder of the  
16 probationary certificate has installed five (5) lateral fields and septic tank systems  
17 and has provided written verification from the local health department in the county  
18 in which the work was completed that these installations have been inspected by a  
19 certified inspector and passed the inspection. The cabinet shall issue a full  
20 certificate to the holder of the probationary certificate no later than sixty (60) days  
21 after receipt of verification. In order to be issued a probationary certification,  
22 eligible persons shall certify in writing that they will make installations in  
23 accordance with requirements set forth by the Cabinet for Health and Family  
24 Services.

25 (3) Persons certified as installers, except master plumbers licensed pursuant to KRS  
26 Chapter 318, shall pay a reasonable fee of not more than twenty-five dollars (\$25)  
27 for certification.

- 1 (4) The cabinet may revoke or suspend any certification issued pursuant to this section
- 2 upon proof that the certified person has:
- 3 (a) Knowingly violated the provisions of this chapter or the regulations of the
- 4 cabinet;
- 5 (b) Practiced fraud or deception in applying for or obtaining a certificate;
- 6 (c) Is incompetent to install on-site sewage disposal systems;
- 7 (d) Permitted the certification to be used directly or indirectly by another to install
- 8 on-site sewage disposal systems; or
- 9 (e) Is guilty of other unprofessional or dishonorable conduct of a character likely
- 10 to deceive or defraud the public.
- 11 (5) Upon appeal of any decision to revoke or suspend a certification, an administrative
- 12 hearing shall be conducted in accordance with KRS Chapter 13B.
- 13 (6) Nothing in this section shall be construed to condone the installation of on-site
- 14 sewage disposal systems contrary to specifications for these systems established by
- 15 the cabinet.

16 Section 356. KRS 211.365 is amended to read as follows:

17 In order to provide for the issuance of plumbing installation permits pursuant to KRS  
 18 Chapter 318 and on-site sewage disposal permits pursuant to this chapter in a manner  
 19 convenient to the public, the Cabinet for Health and Family Services shall provide office  
 20 space in the local departments of health for the district plumbing inspector without fee or  
 21 charge to the Department of Housing, Buildings and Construction.

22 Section 357. KRS 211.420 is amended to read as follows:

- 23 (1) There is hereby established within the Cabinet for Health and Family Services, a
- 24 rural Kentucky dental scholarship fund.
- 25 (2) There shall be available each fiscal year to applicants selected by the board with the
- 26 approval of the Dental Health Program of the Cabinet for Health and Family
- 27 Services, no less than ten (10) scholarships for the study of dentistry leading to the

1 attainment of the degree of Doctor of Dental Surgery, or some equivalent degree.

2 (3) The amount of each scholarship shall be a reasonable sum determined by the board,  
3 but shall not be less than one thousand five hundred dollars (\$1,500) per annum.

4 (4) In granting scholarships the board shall make a careful and full investigation of the  
5 ability, character, and qualifications of each applicant, and may personally examine  
6 each applicant. The board shall, whenever possible, grant financial assistance to the  
7 applicants with the greatest financial need, provided such persons are found to  
8 possess such qualities as give reasonable assurance of their successfully completing  
9 the course of study made possible by the scholarship.

10 Section 358. KRS 211.430 is amended to read as follows:

11 (1) To be eligible for a scholarship made available under KRS 211.405 to 211.460, an  
12 applicant must:

13 (a) Have been a resident of this Commonwealth for not less than five (5) years  
14 immediately preceding the date of application;

15 (b) Be acceptable for enrollment in a dental school accredited by the Council on  
16 Dental Education of the American Dental Association, and approved by the  
17 board; and

18 (c) Furnish satisfactory evidence to the board that he does not have sufficient  
19 financial resources to enable him to study dentistry without assistance.

20 (2) Before a scholarship is granted, the applicant shall contract in writing with the  
21 board, that he will, within six (6) months from the date he completes his term of  
22 study, engage in the practice of dentistry in a locality or localities within this  
23 Commonwealth to be designated by the Dental Health Program of the Cabinet for  
24 Health and Family Services, at the rate of one (1) year for each annual scholarship  
25 received, or proportional time for partial scholarships.

26 Section 359. KRS 211.470 is amended to read as follows:

27 As used in KRS 211.470 to 211.478:

- 1 (1) "Board" means the Traumatic Brain Injury Trust Fund Board created pursuant to  
2 KRS 211.472;
- 3 (2) "Cabinet" means the Cabinet for Health and Family Services;
- 4 (3) "Traumatic brain injury" means a partial or total disability caused by injury to the  
5 central nervous system from physical trauma, damage to the central nervous system  
6 from anoxia, hypoxic episodes, allergic conditions, toxic substances, or other acute  
7 medical clinical incidents resulting in impaired cognitive abilities or impaired  
8 physical functioning. "Traumatic brain injury" does not include:
- 9 (a) Strokes that can be treated in nursing facilities providing routine rehabilitation  
10 services;
- 11 (b) Spinal cord injuries for which there are no known or obvious injuries to the  
12 intracranial central nervous system;
- 13 (c) Progressive dementias and other mentally impairing conditions;
- 14 (d) Depression and psychiatric disorders in which there is no known or obvious  
15 central nervous system damage;
- 16 (e) Mental retardation and birth defect related disorders of long standing nature;  
17 or
- 18 (f) Neurological degenerative, metabolic, and other medical conditions of a  
19 chronic, degenerative nature.
- 20 (4) "Trust fund" means the traumatic brain injury trust fund created pursuant to KRS  
21 211.476.
- 22 Section 360. KRS 211.472 is amended to read as follows:
- 23 (1) The Kentucky Traumatic Brain Injury Trust Fund Board is hereby created for the  
24 purpose of administering the trust fund. The board shall be composed of nine (9)  
25 members including the secretary of the Cabinet for Health and Family Services or  
26 the secretary's designee, the executive director of the Brain Injury Association of  
27 Kentucky or the executive director's designee, the state medical epidemiologist, and

1 the following members, to be appointed by the Governor:

- 2 (a) One (1) member shall be a neurosurgeon;
- 3 (b) One (1) member shall be a neuropsychologist or psychiatrist;
- 4 (c) One (1) member shall be a rehabilitation specialist;
- 5 (d) One (1) member shall be a social worker experienced in working with brain-
- 6 injured individuals; and
- 7 (e) Two (2) members shall be family members of or individuals with a brain
- 8 injury.

9 (2) Board members shall not be compensated for serving, but shall be reimbursed for

10 ordinary travel expenses, including meals and lodging incurred in the performance

11 of their duties.

12 (3) The terms of appointed board members shall be four (4) years, except that the terms

13 of initial members shall be staggered to end as follows:

- 14 (a) Two (2) on June 30, 2000;
- 15 (b) Two (2) on June 30, 2001; and
- 16 (c) Two (2) on June 30, 2002.

17 (4) At the end of a term, a member shall continue to serve until a successor is appointed

18 and qualifies. A member who is appointed after a term has begun shall serve the rest

19 of the term and until a successor is appointed and qualifies. A member who serves

20 two (2) consecutive four (4) year terms shall not be reappointed for four (4) years

21 after completion of those terms.

22 (5) A majority of the full authorized membership shall constitute a quorum.

23 (6) The board shall elect, by a majority vote, a director who shall be the presiding

24 officer of the board, preside at all meetings, and coordinate the functions and

25 activities of the board. The director shall be elected or reelected for each calendar

26 year.

27 (7) The board may establish any organizational structure it determines is necessary to

1 accomplish its functions and duties, including the hiring of any necessary support  
2 personnel. The administrative costs of the board shall be limited to three percent  
3 (3%) of the proceeds from the trust fund.

4 (8) Meetings of the board shall be held at least twice a year but may be held more  
5 frequently, as deemed necessary, subject to call by the director or by the request of a  
6 majority of the board members.

7 (9) The board shall be attached to the cabinet for administrative purposes.

8 Section 361. KRS 211.500 is amended to read as follows:

9 (1) The Kentucky Spinal Cord and Head Injury Research Board is hereby created for  
10 the purpose of administering the spinal cord and head injury research trust fund  
11 created pursuant to KRS 211.504. The board shall be composed of seven (7)  
12 members appointed by the Governor as follows:

13 (a) Two (2) members representing the University of Kentucky College of  
14 Medicine;

15 (b) Two (2) members representing the University of Louisville School of  
16 Medicine;

17 (c) One (1) member who has a spinal cord or head injury or who has a family  
18 member with a spinal cord or head injury;

19 (d) One (1) member representing the Kentucky Medical Association; and

20 (e) One (1) at-large member.

21 (2) Board members shall be reimbursed for ordinary travel expenses, including meals  
22 and lodging, incurred in the performance of duties incident to the provisions of KRS  
23 211.500 to 211.504.

24 (3) The terms of board members shall be four (4) years, except that of the members  
25 appointed after July 15, 1998, two (2) members appointed to fill the terms ending  
26 on June 30, 1999, shall serve until January 31, 2000; two (2) members appointed to  
27 fill the terms expiring on June 30, 2000, shall serve until January 31, 2001; two (2)

1 members appointed to fill the terms expiring on June 30, 2001, shall serve until  
 2 January 31, 2002; and one (1) member appointed to fill the term expiring June 30,  
 3 2002, shall serve until January 31, 2003; and subsequent appointments shall be for  
 4 four (4) year terms ending on January 31.

5 (4) At the end of a term, a member shall continue to serve until a successor is appointed  
 6 and qualifies. A member who is appointed after a term has begun shall serve the rest  
 7 of the term and until a successor is appointed and qualifies.

8 (5) A majority of the full authorized membership of the board shall constitute a  
 9 quorum.

10 (6) The board shall elect, by a majority vote, a chairman who shall be the presiding  
 11 officer of the board, preside at all meetings, and coordinate the functions and  
 12 activities of the board. The chairman shall be elected or reelected for each calendar  
 13 year. The board shall have such other organization as deemed necessary and  
 14 approved by the board.

15 (7) Meetings of the board shall be held at least twice a year but may be held more  
 16 frequently as deemed necessary, subject to call by the chairman or by request of a  
 17 majority of the board members. Board meetings shall concern, among other things,  
 18 policy matters relating to spinal cord and head injury research projects and  
 19 programs, research progress reports, authorization of projects and financial plans,  
 20 and other matters necessary to carry out the intent of KRS 211.500 to 211.504.

21 (8) No member of the board shall be subject to any personal liability or accountability  
 22 for any loss sustained or damage suffered on account of any action or inaction of the  
 23 board.

24 (9) The board shall be attached to the Cabinet for Health and Family Services for  
 25 administrative purposes.

26 Section 362. KRS 211.600 is amended to read as follows:

27 (1) The Cabinet for Health and Family Services shall designate one (1) nonprofit

corporation in each area development district to serve as the regional rape crisis center. The designated agency shall serve as the regional planning authority for crisis and advocacy services for victims of sexual assault in the district in which the center is located.

(2) The rape crisis center shall retain the designation unless it has been rescinded by the cabinet based on an annual review of the center's performance or the annual plan and budget submitted by the center to the cabinet for funding for the next fiscal year.

(3) A rape crisis center designated by the cabinet shall provide services that include, but are not limited to:

- (a) Crisis counseling;
- (b) Mental health and related support services;
- (c) Advocacy;
- (d) Consultation;
- (e) Public education; and
- (f) The provision of training programs for professionals.

Section 363. KRS 211.602 is amended to read as follows:

(1) Notwithstanding the provisions of KRS 210.410, the secretary of the Cabinet for Health and Family Services or any other state or local government entity is hereby authorized to make state grants and other fund allocations to assist nonprofit corporations in the establishment and operation of regional rape crisis centers.

(2) To be eligible for grants from any state government entity, a rape crisis center shall provide the services listed in KRS 211.600(3) and shall operate in a manner consistent with administrative regulations promulgated by the cabinet in accordance with KRS Chapter 13A.

Section 364. KRS 211.640 is amended to read as follows:

The duties of the Cabinet for Health and Family Services shall be to:



- 1 (1) Promote and develop effective programs of education, health, recreation, welfare,  
2 public safety, and correctional services for children and youth;
- 3 (2) Conduct continuing programs of public information to educate the public as to  
4 problems of children and youth;
- 5 (3) Assist and encourage governmental and private agencies to coordinate their efforts  
6 on behalf of children and youth;
- 7 (4) Cooperate with the federal government and with the governments of other states  
8 and cities in programs relating to children and youth;
- 9 (5) Conduct programs of research as to the needs of children and youth in order to  
10 facilitate more comprehensive and better-related social planning and action.

11 Section 365. KRS 211.645 is amended to read as follows:

12 As used in KRS 211.647 and 216.2970, unless the context requires otherwise:

- 13 (1) "Cabinet" means the Cabinet for Health and Family Services;
- 14 (2) "Commission" means the Commission for Children with Special Health Care  
15 Needs;
- 16 (3) "Hard of hearing infant" means a child at birth with a significant hearing loss which  
17 prevents the acquisition of speech and language through normal channels;
- 18 (4) "Auditory screening report" means a written evaluation of an auditory screening as  
19 required under KRS 216.2970;
- 20 (5) "Infant at high risk of hearing loss" means a child at birth who is at a higher risk  
21 than normal of being hard of hearing due to one (1) or more of the following factors  
22 present at birth:
  - 23 (a) Family history of a congenital hearing loss;
  - 24 (b) Rubella or virus during pregnancy;
  - 25 (c) Congenital ear, nose, or throat anomalies;
  - 26 (d) Below-normal birth weight;
  - 27 (e) Abnormal level of jaundice;

- (f) Anoxia or apnea;
- (g) A low APGAR score derived from the evaluation of the infant's color, muscle tone, reflexes, pulse rate, and respiration; or
- (h) An auditory screening indicating a hearing loss.

Section 366. KRS 211.647 is amended to read as follows:

- (1) The commission, on receipt of an auditory screening report of an infant from a hospital or alternative birthing center in accordance with KRS 216.2970 shall review each auditory screening report that indicates a potential hearing loss. The commission shall contact the parents to schedule follow-up evaluations or make a referral for evaluations within three (3) business days.
- (2) The commission shall secure information missing from birth certificates or hospital referral reports which is relevant to identifying infants with a hearing loss.
- (3) If the hearing evaluation performed by the commission contains evidence of a hearing loss, within forty-eight (48) hours the commission shall:
  - (a) Contact the attending physician and parents; and
  - (b) Make a referral to the Kentucky Early Intervention System point of entry in the service area of the child's residence for services under KRS 200.664.
- (4) The commission shall forward a report of a hearing evaluation that indicates a hearing loss, with no information that personally identifies the child, to:
  - (a) The Kentucky Commission on the Deaf and Hard of Hearing for census purposes; and
  - (b) The Kentucky Birth Surveillance Registry for information purposes.
- (5) Cumulative demographic data of identified infants with a hearing loss shall be made available to agencies and organizations including, but not limited to, the Cabinet for Health and Family Services and the Early Childhood Development Authority, requesting the information for planning purposes.

Section 367. KRS 211.651 is amended to read as follows:

1 As used in KRS 211.651 to 211.670, unless the context otherwise requires:

- 2 (1) "Cabinet" means the Cabinet for Health and Family Services;
- 3 (2) "Secretary" means the secretary of the Cabinet for Health and Family Services;
- 4 (3) "Department" means the Department for Public Health; and
- 5 (4) "Designee" means a local health department, mental health/mental retardation  
6 board, or other governmental or private agency designated by the Department for  
7 Public Health.

8 Section 368. KRS 211.690 is amended to read as follows:

- 9 (1) There is established within the Cabinet for Health and Family Services the Health  
10 Access Nurturing Development Services (HANDS) program as a voluntary  
11 statewide home visitation program, for the purpose of providing assistance to at-risk  
12 parents during the prenatal period and until the child's third birthday. The HANDS  
13 program recognizes that parents are the primary decision-makers for their children.  
14 The goals of the HANDS program are to:
  - 15 (a) Facilitate safe and healthy delivery of babies;
  - 16 (b) Provide information about optimal child growth and human development;
  - 17 (c) Facilitate the safety and health of homes; and
  - 18 (d) Encourage greater self-sufficiency of families.
- 19 (2) The cabinet shall administer the HANDS program in cooperation with the Cabinet  
20 for Health and Family Services~~[Families and Children]~~ and the local public health  
21 departments. The voluntary home visitation program may supplement, but shall not  
22 duplicate, any existing program that provides assistance to parents of young  
23 children.
- 24 (3) Participants in the HANDS program shall express informed consent to participate  
25 by written agreement on a form promulgated by the Cabinet for Health and Family  
26 Services.

27 Section 369. KRS 211.736 is amended to read as follows:

- 1 (1) The Kentucky Diabetes Research Board is created for the purpose of administering  
2 the diabetes research trust fund. The board shall be composed of the secretary of the  
3 Cabinet for Health and Family Services or the secretary's designee and seven (7)  
4 members appointed by the Governor as follows:
- 5 (a) Two (2) members representing the University of Kentucky College of  
6 Medicine;
- 7 (b) Two (2) members representing the University of Louisville School of  
8 Medicine;
- 9 (c) One (1) member who has diabetes or who has a family member with diabetes;
- 10 (d) One (1) member who is a physician with experience with research or  
11 treatment of diabetes; and
- 12 (e) One (1) at-large member who has a health care policy perspective on diabetes  
13 issues as a patient, health care provider, consultant, or in business.
- 14 (2) The term of each appointed board member shall be four (4) years. A board member  
15 shall be reimbursed for ordinary travel expenses, including meals and lodging,  
16 incurred in the performance of his or her duties.
- 17 (3) At the end of a term, a member shall continue to serve until a successor is  
18 appointed. A member who is appointed after a term has begun shall serve the rest of  
19 the term and until a successor is appointed. A member who serves two (2)  
20 consecutive full four (4) year terms shall not be reappointed for four (4) years after  
21 completion of those terms.
- 22 (4) A simple majority of the full membership of the board shall constitute a quorum.
- 23 (5) The board shall elect, by a majority vote, a chairperson who shall be the presiding  
24 officer of the board, preside at all meetings, and coordinate the functions and  
25 activities of the board. The chairperson shall be elected or reelected for each  
26 calendar year.
- 27 (6) The board shall meet at least two (2) times each year but may meet more frequently,

1 subject to call by the chairperson or by request of a majority of the board members.

2 Each board meeting shall include but not be limited to programs relating to  
3 diabetes, research progress reports, authorization of projects, and financial plans.

4 (7) No member of the board shall be subject to any personal liability or personal  
5 accountability for any loss sustained or damage suffered on account of any action or  
6 inaction of the board.

7 (8) The board shall be attached to the Cabinet for Health and Family Services for  
8 administrative purposes. The Cabinet for Health and Family Services shall provide  
9 sufficient staff for the proper administration of the board.

10 (9) The Cabinet for Health and Family Services shall promulgate any necessary  
11 administrative regulations in accordance with KRS Chapter 13A to implement the  
12 provisions of KRS 211.735 to 211.739.

13 Section 370. KRS 211.738 is amended to read as follows:

14 (1) A proposed research project shall be submitted to the board on an application  
15 developed by the Cabinet for Health and Family Services in consultation with the  
16 board. The submission deadline for the application shall be September 30 of each  
17 year.

18 (2) The board shall review the project proposal for scientific merit and adherence to the  
19 research priority established in this section. After reviewing the project proposal's  
20 scientific merit and adherence to the research priority, the board shall determine  
21 whether a project proposal shall or shall not be funded. An applicant shall be  
22 notified of the board's decision on the application no later than December 31 of each  
23 year.

24 (3) A project proposal shall be reviewed for scientific merit as follows:

25 (a) Adequacy of prior research and theory in providing a basis for the research;

26 (b) Adequacy of methods;

27 (c) Adequacy of environment, facilities, equipment, available equipment, and

- 1 research atmosphere;
- 2 (d) Qualifications and productivity of the PI and key staff;
- 3 (e) Time commitments of the PI and key staff;
- 4 (f) Availability of subjects or patients where relevant;
- 5 (g) Adequacy of procedures for assessing the effect of interventions on recovery;
- 6 and
- 7 (h) Other factors that affect the potential of the applicants to successfully address
- 8 the research objectives.
- 9 (4) A project shall be reviewed by the board for adherence to research priorities relating
- 10 to in vivo and in vitro studies on naturally occurring phenomena that may:
- 11 (a) Predict the development of diabetic vascular, neuronal, or musculo-skeletal
- 12 complications;
- 13 (b) Define the response of diabetic vascular, neuronal, or musculo-skeletal
- 14 complications to existing therapies; or
- 15 (c) Reverse diabetic vascular, neuronal, or musculo-skeletal complications.
- 16 Section 371. KRS 211.760 is amended to read as follows:
- 17 (1) As used in this section:
- 18 (a) "Body piercing" means the act of penetrating the skin or body part of a human
- 19 being to make a hole, mark, or scar;
- 20 (b) "Facility" means the place of business where tattooing, body piercing, or both
- 21 are conducted; and
- 22 (c) "Tattooing" means the act of producing scars on a human being or the act of
- 23 inserting pigment under the surface of the skin of a human being, by pricking
- 24 with a needle or otherwise, to produce indelible marks or figures visible
- 25 through the skin, including the application of permanent makeup.
- 26 (2) No person shall engage in, offer to engage in, or carry on any business of tattooing,
- 27 body piercing, or both of humans by nonmedical personnel for remuneration within

1 the Commonwealth of Kentucky without first registering with the local health  
2 department in the district or county in which the person is to perform tattooing,  
3 body piercing, or both. Registrations shall be valid for one (1) year. Applicants for  
4 registration shall pay a fee of twenty dollars (\$20) to the local or district health  
5 department.

6 (3) The Cabinet for Health and Family Services shall promulgate administrative  
7 regulations relating to:

8 (a) Health and cleanliness of places of business in which tattooing, body piercing,  
9 or both are conducted;

10 (b) Sterilization of tattooing and body piercing apparatus;

11 (c) Procedures to prevent the spread of disease or infection during or relating to  
12 tattooing and body piercing procedures;

13 (d) Procedures to prevent any tattooing or body piercing of minors without the  
14 written notarized consent of a custodial parent or legal guardian; and

15 (e) Such other administrative regulations as may be necessary to protect public  
16 health or properly administer the program requirements of this section.

17 (4) Representatives of the cabinet or local or district health departments may visit a  
18 facility at any time during business hours to ensure compliance with the  
19 requirements of this section. Representatives of local or district health departments  
20 shall visit each registered facility in their county or district not less than twice each  
21 year.

22 (5) Any administrative hearing conducted under this section shall be conducted in  
23 accordance with KRS Chapter 13B.

24 Section 372. KRS 211.820 is amended to read as follows:

25 (1) The Cabinet for Health and Family Services shall have the following functions,  
26 powers, and duties:

27 (a) To conduct a survey of all of the existing facilities within the state having to

- 1 do with the diagnosis, evaluation, and treatment of patients with kidney  
2 disease and to prepare and submit its findings and a specific program of  
3 action;
- 4 (b) To evaluate the need for the creation of local or regional facilities and for the  
5 establishing of a major kidney research center;
- 6 (c) To develop and administer scientific investigations into the cause, prevention,  
7 methods of treatment, and cure of renal disease, including research into  
8 transplantation of kidneys;
- 9 (d) To develop techniques for an effective method of mass testing for the  
10 detection of kidney diseases and urinary tract infections;
- 11 (e) To develop more efficient methods of medical care for kidney disease and to  
12 develop more effective and economical kidney dialysis equipment;
- 13 (f) To survey and evaluate the need for a program of professional education and  
14 training for medical students, physicians, and nurses in the care and treatment  
15 of kidney diseases;
- 16 (g) To report to the Governor and to a committee of the legislature annually on or  
17 before February 1 its findings, a progress report, its activities and the state's  
18 total needs in this area; and
- 19 (h) To enter into such contracts and agreements with individuals, colleges,  
20 universities, associations, corporations, municipalities, and other units of  
21 government as may be deemed necessary and advisable to carry out the  
22 general intent and purposes of this section. Such contracts may provide for  
23 payment by the state, within the limit of funds available, for materials,  
24 equipment, or services.
- 25 (2) The secretary may adopt rules and regulations necessary to effect the purposes of  
26 this section.
- 27 Section 373. KRS 211.842 is amended to read as follows:



- 1 (1) The Cabinet for Health and Family Services is the radiation control agency of the  
2 State of Kentucky.
- 3 (2) The Cabinet for Health and Family Services shall issue licenses pertaining to  
4 radioactive materials and require registration of other sources of ionizing radiation.
- 5 (3) The Cabinet for Health and Family Services shall develop and conduct programs  
6 for evaluation and control of hazards associated with the use of sources of ionizing,  
7 nonionizing, and electronic product radiation.
- 8 (4) The cabinet or its duly authorized representative may enter at a reasonable time  
9 upon the property of a licensee, registrant, or other person where sources of  
10 ionizing, nonionizing, or electronic product radiation are reasonably believed to be  
11 located for the purpose of determining whether or not such licensee, registrant, or  
12 other person is in compliance with or in violation of the provisions of KRS 211.842  
13 to 211.852 and administrative regulations promulgated hereunder, and the owner,  
14 occupant, or person in charge of the property shall permit entry and inspection;  
15 provided, that entry into areas under the jurisdiction of an agency of the federal  
16 government or its duly designated representative shall be only upon permission of  
17 the agency or its representative.

18 Section 374. KRS 211.843 is amended to read as follows:

19 The secretary for health and family services may, by administrative regulation, require  
20 licensees of radioactive materials to provide an adequate surety or other financial  
21 arrangement, in such amount as the secretary deems reasonably appropriate to cover  
22 potential cleanup costs in the event of abandonment, insolvency, or other inability of the  
23 licensee to meet the requirements of the secretary regarding a radioactive material  
24 accident or other public health hazard created by the presence of radioactive material at a  
25 site occupied by the licensee or formerly under its possession, ownership, or control.  
26 Acceptable sureties include bonds issued by fidelity or surety companies authorized or  
27 eligible to do business in Kentucky, cash deposits, certificates of deposit, deposits of

1 government securities, irrevocable letters or lines of credit, trust funds, escrow accounts  
2 or such other types of arrangements, but shall not include any arrangement which  
3 essentially constitutes self-insurance. The secretary shall be the obligee of the surety and  
4 the proceeds of the surety shall be used by the secretary for defraying the cost of cleaning  
5 up and decontaminating the area of property involved. Failure to comply with any  
6 regulation promulgated to carry out this section by any licensee shall result in automatic  
7 revocation of such license by operation of law.

8 Section 375. KRS 211.844 is amended to read as follows:

9 (1) The Cabinet for Health and Family Services shall provide by administrative  
10 regulation for the registration and licensing of the possession or use of any source of  
11 ionizing or electronic product radiation and the handling and disposal of radioactive  
12 waste. The cabinet may prescribe specific conditions or means for the disposal and  
13 volume and source reduction of radioactive materials including radioactive waste.  
14 These administrative regulations shall include but need not be limited to  
15 specification of the form of applications for registration and licenses, the  
16 qualifications therefor, grounds for revocation, appeal pursuant to KRS Chapter  
17 13B, and other matters necessary to carry out the intent of KRS 211.842 to 211.852  
18 and to protect the public from unnecessary radiation exposure.

19 (2) All administrative regulations adopted prior to June 17, 1978, by the Cabinet for  
20 Human Resources and on file with the Legislative Research Commission shall  
21 continue in full force and effect unless subsequently amended or repealed pursuant  
22 to the provisions of KRS 211.842 to 211.852.

23 Section 376. KRS 211.846 is amended to read as follows:

24 The Cabinet for Health and Family Services shall monitor radioactive waste material  
25 sites in Kentucky for the protection of the public health, safety, and welfare. The Finance  
26 and Administration Cabinet and the Cabinet for Health and Family Services shall  
27 cooperate and coordinate their activities in the leasing, regulation, monitoring, and

1 control of radioactive waste material burial sites.

2 Section 377. KRS 211.848 is amended to read as follows:

3 (1) The secretary of the Cabinet for Health and Family Services shall fix a reasonable  
4 schedule of fees and charges, by regulation, to be paid by applicants for registration  
5 of radiation- producing machines and radioactive material licenses and for renewal  
6 of the certificates and licenses. The secretary shall also prescribe, by regulation, a  
7 reasonable schedule of fees to be paid by registrants and licensees for inspections  
8 and environmental surveillance activities conducted by the cabinet.

9 (2) All fees and charges collected by the Cabinet for Health and Family Services under  
10 the provisions of KRS 211.842 to 211.852 or the administrative regulations adopted  
11 pursuant to KRS 211.844 shall be paid into the State Treasury and credited to a trust  
12 and agency fund to be used by the Cabinet for Health and Family Services in  
13 carrying out the provisions of KRS 211.842 to 211.852.

14 Section 378. KRS 211.850 is amended to read as follows:

15 Whenever, in the opinion of the Attorney General or the secretary of the Cabinet for  
16 Health and Family Services, the person is violating or is about to violate any of the  
17 provisions of KRS 211.842 to 211.852, or any regulation lawfully promulgated pursuant  
18 thereto, the Attorney General or the secretary may apply to the appropriate court for an  
19 order enjoining the person from engaging or continuing to engage in the violative act, and  
20 upon a showing that such person has engaged or is about to engage in such activity, a  
21 restraining order or permanent or temporary injunction, or any other appropriate order  
22 shall be granted.

23 Section 379. KRS 211.852 is amended to read as follows:

24 (1) The location of a nuclear waste disposal facility in the Commonwealth of Kentucky  
25 shall require prior approval by a majority of the members of the Kentucky House of  
26 Representatives, a majority of the members of the Kentucky Senate, and the  
27 approval of the Governor of Kentucky.

(2) Before an application to locate a nuclear waste disposal facility in Kentucky can be submitted for approval to the Kentucky General Assembly, it must first receive the approval of the secretary of the Cabinet for Health and Family Services and the secretary of the Natural Resources and Environmental Protection Cabinet. It shall be the responsibility of the Cabinet for Health and Family Services and the Natural Resources and Environmental Protection Cabinet to ensure that a comprehensive environmental impact statement is submitted and that public hearings are held in the county in which it is proposed to locate a nuclear waste disposal facility.

(3) This section shall not apply to nuclear waste disposal facilities in existence prior to June 17, 1978.

Section 380. KRS 211.854 is amended to read as follows:

(1) The Cabinet for Health and Family Services may monitor the radiation in discharges into rivers along the Kentucky border from all nuclear power plants located on either side of such rivers for the protection of the health, safety, and welfare of the citizens of the Commonwealth. Monitoring may be conducted on a continuous basis.

(2) If there is evidence that the effluent standards applicable to any nuclear power facility are not being properly and expeditiously enforced, the Attorney General shall report such violations to the United States attorney for appropriate action or bring an action of mandamus against the appropriate enforcement agency.

Section 381. KRS 211.855 is amended to read as follows:

(1) The Cabinet for Health and Family Services shall be the regulatory agency for the control of radon in the Commonwealth of Kentucky.

(2) The Cabinet for Health and Family Services shall develop and conduct programs for evaluation and control of activities related to radon including laboratory analyses, mitigation, and measurements.

Section 382. KRS 211.856 is amended to read as follows:

- 1 (1) No person shall engage in radon analysis, mitigation, or testing activities without  
2 obtaining certification from the Cabinet for Health and Family Services. The  
3 Cabinet for Health and Family Services shall promulgate administrative regulations  
4 pursuant to KRS Chapter 13A, which shall include, but not be limited to,  
5 specifications of the form of applications for certification, the qualifications for  
6 certification, grounds for revocation of certification, and other matters as may be  
7 necessary to protect the public from unnecessary radiation exposure from radon.
- 8 (2) The secretary of health and family services shall fix a reasonable schedule of fees,  
9 by administrative regulation promulgated pursuant to KRS Chapter 13A, to be paid  
10 by applicants for certification and renewal of radon mitigators, testers, and  
11 laboratories. The secretary shall also prescribe, by administrative regulation  
12 promulgated pursuant to KRS Chapter 13A, a reasonable schedule of fees to be paid  
13 by certified radon mitigators, testers, and laboratories for inspections and  
14 environmental surveillance activities conducted by the Cabinet for Health and  
15 Family Services.
- 16 (3) All fees and fines collected by the Cabinet for Health and Family Services under  
17 the provisions of KRS 211.855 to 211.858 or the administrative regulations  
18 promulgated pursuant to KRS 211.855 to 211.858 shall be paid into the State  
19 Treasury and credited to a trust and agency fund to be used by the Cabinet for  
20 Health and Family Services in carrying out the provisions of KRS 211.855 to  
21 211.858.
- 22 (4) State and local governmental agencies shall be exempt from the payment of fees but  
23 shall otherwise comply with KRS 211.855 to 211.858.

24 Section 383. KRS 211.857 is amended to read as follows:

25 The Cabinet for Health and Family Services may institute proceedings in Circuit Court  
26 for an order enjoining a person from engaging or attempting to engage in activities which  
27 violate the provisions of KRS 211.855 to 211.858 or administrative regulations

promulgated pursuant to KRS 211.855 to 211.858. Upon a showing that a person has engaged in or is about to engage in this activity, a restraining order, permanent injunction, temporary injunction, or other appropriate order shall be granted.

Section 384. KRS 211.858 is amended to read as follows:

Any person who violates KRS 211.855 to 211.858 or any administrative regulation promulgated pursuant to KRS 211.855 to 211.858 or who fails to comply with an order of the Cabinet for Health and Family Services issued pursuant to KRS 211.855 to 211.858 shall be fined not less than ten dollars (\$10) nor more than one hundred dollars (\$100) for each day the violation or noncompliance continues.

Section 385. KRS 211.862 is amended to read as follows:

As used in KRS 211.861 to 211.869, unless the compact requires otherwise:

- (1) "Commission" means the Central Midwest Interstate Low-Level Radioactive Waste Commission;
- (2) "Cabinet" means the Cabinet for Health and Family Services;
- (3) "Compact" means the Central Midwest Interstate Low-Level Radioactive Waste Compact;
- (4) "Disposal" means the isolation of waste from the biosphere in a permanent facility designed for that purpose;
- (5) "Facility" means a parcel of land or site, together with the structures, equipment, and improvements on, or appurtenant to, the land or site, that is used or is being developed for the treatment, storage, or disposal of low-level radioactive waste;
- (6) "Low-level radioactive waste" or "waste" means radioactive waste not classified as high-level radioactive waste, transuranic waste, spent nuclear fuel, or by-product material as defined in Section 11e(2) of the Federal Atomic Energy Act. This definition shall apply regardless of any declaration by the federal government or any state that any radioactive material is exempt from any regulatory control;
- (7) "Management plan" means the plan adopted by the commission for the storage,

1 transportation, treatment, and disposal of waste within the region;

2 (8) "Naturally-occurring radioactive material" (NORM) means naturally occurring  
3 materials not regulated under the Atomic Energy Act of 1954, as amended, whose  
4 radionuclide concentrations have been increased by or as a result of human  
5 practices. Naturally occurring radioactive material does not include the natural  
6 radioactivity of rocks or soils, or background radiation, but instead refers to  
7 materials whose radioactivity is technologically enhanced by controllable practices  
8 (or by past human practices);

9 (9) "Person" means any individual, corporation, business enterprise, or other legal  
10 entity, public or private, and any legal successor, representative, agent or agency of  
11 that individual, corporation, business enterprise, or legal entity;

12 (10) "Region" means the geographical area of the state of Illinois and the  
13 Commonwealth of Kentucky;

14 (11) "Regional facility" means any facility as defined in this section that is located in  
15 Kentucky, and established by Kentucky pursuant to designation of Kentucky as a  
16 host state by the commission;

17 (12) "Storage" means the temporary holding of radioactive material for treatment or  
18 disposal; and

19 (13) "Treatment" means any method, technique, or process, including storage for  
20 radioactive decay, designed to change the physical, chemical, or biological  
21 characteristics of the radioactive material in order to render the radioactive material  
22 safe for transport or management, amenable to recovery, convertible to another  
23 usable material, or reduced in volume.

24 Section 386. KRS 211.870 is amended to read as follows:

25 The Cabinet for Health and Family Services may promulgate administrative regulations  
26 relating to operators of sources of radiation other than licensed practitioners of the healing  
27 arts. The administrative regulations may include, but need not be limited to, the

classification and certification of operators; examinations; standards of training and experience; curricula standards for institutions teaching persons to operate radiation sources; issuance, renewal, and revocation of certificates; appeal of certificate denials or revocations pursuant to KRS Chapter 13B; and other standards or regulations appropriate for protection of health and safety.

Section 387. KRS 211.890 is amended to read as follows:

The secretary of the Cabinet for Health and Family Services is authorized to fix a reasonable schedule of fees and charges, by regulation, to be paid by applicants for examinations, certificates, and renewal certificates. All such fees and charges and other moneys collected by the Cabinet for Health and Family Services under the provisions of KRS 211.870 and 211.890 or the rules and regulations adopted under KRS 211.870 and 211.890 shall be paid into the State Treasury and credited to a trust and agency fund to be used by the Cabinet for Health and Family Services in carrying out the provisions of KRS 211.870 and 211.890.

Section 388. KRS 211.894 is amended to read as follows:

(1) The Governor, the secretary of the Cabinet for Health and Family Services, the secretary of the Natural Resources and Environmental Protection Cabinet or any other state agency shall not enter into a contract or an agreement of any kind with the federal government relinquishing ownership of a low-level nuclear waste disposal site located in the Commonwealth without prior approval of a majority of the members of the Kentucky House of Representatives and a majority of the members of the Kentucky Senate.

(2) It shall be the policy of the Commonwealth to retain final authority for approving or disapproving the locating, opening, closing, or reopening of a nuclear waste disposal site or facility within its borders.

(3) The Governor or appropriate state agencies may enter into contracts and agreements with the federal government relating to nuclear waste disposal sites located in the



1 Commonwealth on July 15, 1980, that do not violate the provisions of subsections  
2 (1) and (2) of this section.

3 Section 389. KRS 211.896 is amended to read as follows:

4 (1) Any nuclear waste disposal facility, licensed and regulated by the Kentucky Cabinet  
5 for Health and Family Services, which is closed either because there is doubt as to  
6 the public safety of the site, the integrity of the site, the economic feasibility of  
7 financing perpetual care and maintenance and decommissioning of the site, or  
8 compliance with cabinet regulations, shall not reopen without:

9 (a) A finding of fact by the secretary of the Cabinet for Health and Family  
10 Services and the secretary of the Natural Resources and Environmental  
11 Protection Cabinet that all reasons for site closure have been addressed and  
12 resolved such that there is no longer any doubt as to the public safety or  
13 integrity of the site or the ability to adequately finance the perpetual care and  
14 maintenance and decommissioning of the site or the compliance of the site  
15 with cabinet regulations; and

16 (b) A public hearing and the taking of public comment on such findings of fact;  
17 and

18 (c) Approval of a majority of the members of the House of Representatives and a  
19 majority of the members of the Senate; and

20 (d) Approval of the Governor.

21 (2) The Cabinet for Health and Family Services shall be responsible for organizing the  
22 public hearings, which shall be held in the county in which the nuclear waste  
23 disposal facility is located and shall be at a time and place convenient for public  
24 participation. Adequate notification shall be given to the public of the intention to  
25 reopen a nuclear waste disposal site and the cabinet shall make available to the  
26 public the data and information upon which its decision to recommend approval of  
27 reopening of the site is based.

1 Section 390. KRS 211.900 is amended to read as follows:

2 As used in KRS 211.900 to 211.905 and KRS 211.994, unless the context otherwise  
3 requires:

4 (1) "Cabinet" shall mean the Cabinet for Health and Family Services;

5 (2) "Secretary" shall mean the secretary for health and family services or his authorized  
6 representative;

7 (3) "Lead-based substance" shall mean any substance containing more than six one-  
8 hundredths of one percent (0.06%) lead by weight of nonvolatile content as  
9 provided in KRS 217.801;

10 (4) "Dwelling" shall mean any structure, all or a part of which is designed for human  
11 habitation;

12 (5) "Dwelling unit" shall mean any room or group of rooms or other interior areas of a  
13 dwelling designed or used for human habitation;

14 (6) "Owner" shall mean any person who, alone, jointly, or severally with others, has  
15 legal title to, charge, care, or control of any dwelling or dwelling unit as owner,  
16 agent of the owner, or as executor, administrator, trustee, conservator, or guardian  
17 of the estate of the owner;

18 (7) "At-risk persons" shall mean those persons who reside in dwellings or dwelling  
19 units which were constructed and originally painted prior to 1945 or other dwellings  
20 in geographic areas in which a high content of lead in paint was used and a high  
21 incidence of lead poisoning may be reasonably expected or has been reported; and

22 (8) "Outreach programs" shall mean those efforts to locate, screen, and diagnose for  
23 elevated lead blood levels, those at-risk persons who are not utilizing existing  
24 screening and diagnostic programs or those programs which may be established  
25 after June 21, 1974.

26 Section 391. KRS 211.920 is amended to read as follows:

27 As used in KRS 211.925 to 211.945, unless the context otherwise requires:

- 1 (1) "Cabinet" shall mean the Cabinet for Health and Family Services.
- 2 (2) "State confinement facility" shall mean a penal or correctional facility or juvenile  
3 detention or treatment facility operated by or under the supervision of the  
4 Commonwealth of Kentucky.
- 5 (3) "Public health" and "health" shall mean and include, but shall not be limited to, all  
6 environmental, dental, mental, medical, and nutritional aspects of the health of  
7 persons confined in a state confinement facility.

8 Section 392. KRS 211.970 is amended to read as follows:

9 As used in KRS 211.972 to 211.982, unless the context requires otherwise:

- 10 (1) "Approved" means that which has been considered acceptable to the cabinet;
- 11 (2) "Cabinet" means the Cabinet for Health and Family Services and includes its  
12 authorized agents;
- 13 (3) "Grease" means fats or oils of animal, vegetable, or mineral origin, separately or in  
14 colloidal or dissolved states in combination with soaps, detergents, or food  
15 particles;
- 16 (4) "Grease trap" means a component designed to separate grease and its constituents  
17 from the wastewater stream, provide for storage of separated grease, and discharge  
18 the remaining wastewater for treatment;
- 19 (5) "Holding tank" means a tank which provides limited pretreatment and storage for  
20 off-site disposal where site limitations preclude immediate installation of a  
21 subsurface soil absorption system, or connection to a municipal sewer. It also  
22 includes portable toilets and similar temporary-use units which contain holding  
23 tanks;
- 24 (6) "Person" means any individual, firm, association, organization, partnership,  
25 business trust, corporation, company, or governmental unit;
- 26 (7) "Secretary" means the secretary of the Cabinet for Health and Family Services;
- 27 (8) "Sewage" means domestic blackwater and greywater wastes, but does not include

1 waste from industrial or commercial processes;

2 (9) "Sewage pretreatment unit" means a watertight sewage treatment structure designed  
3 and constructed to receive raw sewage, separate solids from liquids, digest organic  
4 matter through a period of retention, and allow clarified effluent to discharge to a  
5 subsurface soil absorption system. Pretreatment units fall into three (3) basic  
6 categories:

7 (a) Septic tanks, which rely predominantly on anaerobic bacterial action for  
8 treatment;

9 (b) Aerobic units, which introduce atmospheric air into the sewage to promote  
10 treatment by aerobic bacteria; and

11 (c) Combination units, which provide treatment through both anaerobic and  
12 aerobic bacterial action and mechanical filtering, ozonation, or ultraviolet  
13 irradiation;

14 (10) "Sewage sludge" means the solid or semisolid residues which are retained within a  
15 sewage pretreatment unit or grease trap, as a result of mechanical, hydraulic,  
16 biologic, or chemical actions. It also includes raw sewage accepted and stored  
17 within a holding tank;

18 (11) "Site" means a facility or parcel of land under the ownership of any person which is  
19 intended for use as the ultimate disposal or treatment location for sewage sludge;  
20 and

21 (12) "Tank" means any container placed on a vehicle to carry in transport sewage sludge  
22 removed from a sewage pretreatment unit, grease trap, or holding tank.

23 Section 393. KRS 211.990 is amended to read as follows:

24 (1) Any owner or occupant who fails to comply with an order made under the  
25 provisions of KRS 211.210 shall be guilty of a violation, and each day's continuance  
26 of the nuisance, source of filth, or cause of sickness, after the owner or occupant has  
27 been notified to remove it, shall be a separate offense.

- 1 (2) Except as otherwise provided by law, anyone who fails to comply with the  
2 provisions of the rules and regulations adopted pursuant to this chapter or who fails  
3 to comply with an order of the cabinet issued pursuant thereto shall be guilty of a  
4 violation. Each day of such violation or noncompliance shall constitute a separate  
5 offense.
- 6 (3) Any person who violates any provision of KRS 211.182 shall, upon first offense, be  
7 guilty of a Class A misdemeanor. Each subsequent violation of any provision of  
8 KRS 211.182 shall constitute a Class D felony.
- 9 (4) Any person who violates any provision of KRS 211.842 to 211.852 or any  
10 regulation adopted hereunder or any order issued by the Cabinet for Health and  
11 Family Services to comply with any provision of KRS 211.842 to 211.852 or the  
12 regulations adopted thereunder shall be guilty of a Class A misdemeanor. Each day  
13 of violation or noncompliance shall constitute a separate offense.
- 14 (5) A person who performs or offers to perform lead-hazard detection or lead-hazard  
15 abatement services in target housing or child-occupied facilities who is not certified  
16 as required by KRS 211.9063 or 211.9069 shall be guilty of a Class A  
17 misdemeanor.
- 18 (6) Any person who performs lead-hazard detection or lead-hazard abatement services  
19 in target housing or child-occupied facilities, who willfully violates the standards  
20 for performing lead-hazard detection or lead-hazard abatement procedures included  
21 in the administrative regulations promulgated pursuant to KRS 211.9075 shall be  
22 guilty of a Class D felony.
- 23 (7) The penalties provided in subsections (5) and (6) of this section are cumulative and  
24 are in addition to any other penalties, claims, damages, or remedies available at law  
25 or in equity.
- 26 (8) Any person who violates any provisions of KRS 211.760 shall be fined not less than  
27 ten dollars (\$10) nor more than one hundred dollars (\$100). Each day of violation or

1 noncompliance shall constitute a separate offense.

2 Section 394. KRS 211.993 is amended to read as follows:

3 Anyone who fails to comply with any provisions of KRS 211.870, 211.890, or with any  
4 rules or regulations adopted pursuant to KRS 211.870 or 211.890 or fails to comply with  
5 any order of the Cabinet for Health and Family Services issued pursuant thereto shall be  
6 fined not less than ten dollars (\$10) nor more than one hundred dollars (\$100). Each day  
7 of such violation or noncompliance shall constitute a separate offense.

8 Section 395. KRS 212.020 is amended to read as follows:

9 (1) The secretary of the Cabinet for Health and Family Services shall appoint, from a  
10 list of nominees, three (3) qualified, licensed, and practicing physicians; one (1)  
11 qualified, licensed, and practicing dentist; one (1) qualified, licensed, and practicing  
12 registered nurse; one (1) licensed engineer engaged in the practice of civil or  
13 sanitary engineering; one (1) qualified, licensed, and practicing optometrist; one (1)  
14 qualified licensed and practicing veterinarian; one (1) licensed pharmacist; and one  
15 (1) lay person knowledgeable in consumer affairs residing in each county who,  
16 together with the county judge/executive and one (1) person appointed by the fiscal  
17 court in each county, shall constitute a local board of health for the respective  
18 counties in which they reside. The list of nominees submitted to the secretary shall  
19 be accepted from any source and shall be solicited and obtained from the county  
20 judge/executive, fiscal court, and county health department staff; and nominations  
21 of physicians, dentists, nurses, engineers, optometrists, veterinarians, and  
22 pharmacists shall be solicited and obtained from the county's medical society, dental  
23 society, nursing association, engineering association, optometric association,  
24 veterinarian association, and pharmacists' association, respectively. If a county does  
25 not have three (3) qualified, licensed, and practicing physicians or one (1) qualified,  
26 licensed, and practicing dentist or one (1) qualified, licensed, and practicing  
27 registered nurse or one (1) qualified, licensed, and practicing civil or sanitary

1 engineer or one (1) qualified, licensed, and practicing optometrist or one (1)  
 2 qualified, licensed, and practicing veterinarian, or one (1) licensed pharmacist  
 3 residing therein, the secretary of the Cabinet for Health and Family Services may  
 4 appoint a resident lay person knowledgeable in consumer affairs in lieu thereof for  
 5 each such vacancy. The members of the local board shall hold office for a term of :  
 6 two (2) years with physicians, dentists, pharmacists, and fiscal court appointees :  
 7 appointed in even-numbered years and nurses, engineers, optometrists,  
 8 veterinarians, and lay appointees appointed in odd-numbered years, for terms from  
 9 the date of their appointment, beginning on or after January 1, 1993, and until their  
 10 successors are appointed, except the terms of the first appointment of all physician  
 11 and fiscal court appointee terms beginning on January 1, 1993, shall expire on  
 12 December 31, 1993; dentist terms beginning on August 1, 1992, shall expire on  
 13 December 31, 1993; nurse, engineer, and optometrist appointments beginning on  
 14 August 1, 1992, shall expire on December 31, 1994; and veterinarian and lay  
 15 appointments beginning on October 1, 1992, shall expire on December 31, 1994.  
 16 The members of the board shall receive no compensation for their services.

- 17 (2) The secretary shall remove any member, other than the county judge/executive or  
 18 fiscal court appointee, who fails to attend three (3) consecutive scheduled meetings,  
 19 and may remove any board member, except the county judge/executive or fiscal  
 20 court appointee, as provided by KRS 65.007. The fiscal court may remove its :  
 21 appointee in like fashion. :

22 Section 396. KRS 212.025 is amended to read as follows:

- 23 (1) The Cabinet for Health and Family Services and any local health department, with  
 24 the approval of the Cabinet for Health and Family Services, is hereby authorized to  
 25 provide home nursing care services and other health services and may charge fees  
 26 therefor. The secretary of the Cabinet for Health and Family Services shall adopt a  
 27 fee schedule covering all charges for such services.

(2) All fees and charges collected by the Cabinet for Health and Family Services or the local health department concerned shall be credited to a trust and agency fund to be used only for carrying out the provisions of this section.

Section 397. KRS 212.120 is amended to read as follows:

(1) Upon the creation of a county health department, the fiscal court of the county shall at once notify the Cabinet for Health and Family Services of the action of the county to create, establish, and maintain a county health department. When the duly qualified officials of a county certify to the Cabinet for Health and Family Services a true copy of the order or vote establishing a health department, and providing for its maintenance, and state the amount of the annual appropriation provided by the county the Cabinet for Health and Family Services shall make an investigation as to the necessity of the development of the department, and the adequacy of the appropriation provided by the county therefor, and shall report its findings to the Governor.

(2) If the Cabinet for Health and Family Services finds that such county health department has been established in accordance with the provisions of this chapter and is being maintained, conducted, and operated in accordance with the standards prescribed by the Cabinet for Health and Family Services, the Cabinet for Health and Family Services shall, on or before July 1 in each year, allot to each such county health department such amount that the Cabinet for Health and Family Services deems to constitute a just and equitable share of all funds available therefor by appropriation by the General Assembly of this Commonwealth, by grants and gifts received by this Commonwealth from the government of the United States of America or any of its agencies or instrumentalities, and from other sources. Provided, however, that no allotment to any such county health department shall be less than two thousand five hundred dollars (\$2,500).

(3) In determining the allotments referred to in subsection (2) of this section, the



1 Cabinet for Health and Family Services shall endeavor to provide for a distribution  
2 of the funds in a manner that is reasonably calculated to equalize, so far as  
3 practicable, local health services to the people of all counties served by the county  
4 health departments. The Cabinet for Health and Family Services may take into  
5 consideration variations existing between counties by reasons of difference in  
6 population, resources, industrialization, tax assessments and tax rates, and other  
7 local factors and conditions; the legislative intent being hereby declared to be that  
8 counties shall provide, from local sources of revenue that are available or that may  
9 be made available to them, financial support of county health departments to the  
10 extent of their representative abilities.

11 (4) The Cabinet for Health and Family Services may, in its discretion alter or modify  
12 allotments from time to time and shall cancel any allotment whenever it finds that  
13 there is no further need or necessity for a particular county health department for  
14 whose benefit the allotment was made or whenever a particular county health  
15 department for whose benefit an allotment was made is not maintained, operated,  
16 and conducted in accordance with the standards prescribed by the Cabinet for  
17 Health and Family Services. Nothing in this section shall be construed as requiring  
18 the Cabinet for Health and Family Services to allot all funds available for local  
19 health purposes, or as prohibiting the department from allotting such portion  
20 thereof, as the department may determine, to a reserve account which may be  
21 suballotted by the department in such a manner that it considers proper in the event  
22 of emergencies, disaster, or unforeseen events, without regard to the provisions of  
23 subsection (3) of this section.

24 (5) Notwithstanding the provisions of KRS 45.229 and any other provision of the  
25 Kentucky Revised Statutes, any unexpended or unencumbered balance of any  
26 appropriations made available for allotment and expenditure, as provided above, for  
27 the first fiscal year of each biennium, remaining at the end of such fiscal year, shall

1 be carried forward and be available for expenditure at any time during the ensuing  
2 fiscal year within the biennium and no portion thereof shall lapse to the general  
3 fund.

4 Section 398. KRS 212.130 is amended to read as follows:

5 Immediately after receiving notice of the creation of a county or district department of  
6 health, the Cabinet for Health and Family Services shall notify the secretary of the  
7 county board or boards of health to call a meeting of the county board or boards of health  
8 for the purpose of organizing the county or district department of health.

9 Section 399. KRS 212.170 is amended to read as follows:

10 (1) The county board of health of each county having a county department of health  
11 shall, subject to the approval of the Cabinet for Health and Family Services,  
12 appoint a health officer who shall, subject to merit system provisions, hold office at  
13 the pleasure of both the county board and the Cabinet for Health and Family  
14 Services.

15 (2) A health officer may:

16 (a) With the approval of the Cabinet for Health and Family Services and the  
17 local boards of health concerned, serve in such capacity for more than one  
18 county; and

19 (b) At the discretion of the local board, act as chief administrative officer of the  
20 board.

21 (3) A health officer may appoint an administrative assistant for each county served by  
22 him subject to the approval of the Cabinet for Health and Family Services. An  
23 administrative assistant shall exercise such duties as may be delegated to him by the  
24 health officer.

25 (4) A health officer may employ and fix the compensation of, by contract or otherwise,  
26 subject to the approval of the Cabinet for Health and Family Services, all medical,  
27 technical, clerical, professional, and other employees necessary for the maintenance

1 and operation of the local health department in accordance with standards and merit  
2 system provisions prescribed by the Cabinet for Health and Family Services.

3 (5) In the absence of a local health officer, the secretary for health and family services  
4 or his duly appointed representative shall serve as health officer for the county  
5 concerned.

6 (6) Appeals under the local health department merit system shall be conducted in  
7 accordance with KRS Chapter 13B.

8 Section 400. KRS 212.180 is amended to read as follows:

9 Every health officer provided for by this chapter shall be a duly licensed physician and  
10 shall possess such other qualifications that are prescribed by the Cabinet for Health and  
11 Family Services.

12 Section 401. KRS 212.190 is amended to read as follows:

13 (1) The health officer of counties that do not have a county department of health shall  
14 receive a reasonable compensation, the amount of which shall be fixed by the fiscal  
15 court at the time of, or immediately after, his election, and to be paid as other  
16 county officers are paid. In no case shall such health officer claim or receive from  
17 the county any compensation other than the salary fixed by the fiscal court.

18 (2) The health officer of counties having a county department of health shall receive a  
19 salary to be fixed by the county board of health subject to the approval of the  
20 Cabinet for Health and Family Services. He shall receive necessary traveling  
21 expenses.

22 Section 402. KRS 212.210 is amended to read as follows:

23 (1) The Cabinet for Health and Family Services and the local boards of health may  
24 examine into all nuisances, sources of filth, and causes of sickness that may, in their  
25 opinion, be injurious to the health of the inhabitants in any county in this state, or in  
26 any vessel within any harbor or port in any county in this state. Whenever any such  
27 nuisance, source of filth, or cause of sickness is found to exist on any private

property, or in any vessel within any port or harbor in any county in this state, or upon any watercourse in this state, the Cabinet for Health and Family Services or the local board of health may order, in writing, the owner or occupant thereof, at his own expense, to remove the same within twenty-four (24) hours, or within such reasonable time thereafter as the board may order.

(2) If drinking water used by school children is found to be dangerous to their health, the local board of health or Cabinet for Health and Family Services may order that a supply of pure water be furnished at the expense of the county or city board of education.

(3) If in the opinion of the local board of health or Cabinet for Health and Family Services a school building is constructed in violation of law and is found to be unsanitary or unsafe for the housing of children, the local board of health or Cabinet for Health and Family Services may institute an action in the Circuit Court of the county where the building is situated, and the court, after due hearing and verifying the facts, may order a safe and sanitary school building to be erected within a reasonable time by the county or city board of education in accordance with the laws of the state governing the erection of schoolhouses and the control of disease, and the rules and regulations of the Cabinet for Health and Family Services.

(4) Any local board of health shall, for the purpose of controlling and eradicating rats and other unsanitary nuisances, require the owner or possessor of any building designed for human habitation and containing two (2) or more apartment units, to provide, where a specific area has been designated for the depositing of refuse on the premises, waste receptacles approved by the board. The board may further require that the design, construction, and maintenance of the area in which the waste receptacles are kept meet reasonable standards set by the board.

Section 403. KRS 212.230 is amended to read as follows:

(1) County, city-county, and district boards of health shall:

- 1 (a) Appoint a health officer and fix his salary subject to the approval of the  
2 Cabinet for Health and Family Services;
- 3 (b) Hold a regular meeting at least once every three (3) months, except that  
4 county or city-county boards whose counties are members of a district health  
5 department shall hold a regular meeting at least once every twelve (12)  
6 months, and other special or regular meetings as desired and keep full minutes  
7 of all the proceedings in a book provided for this purpose;
- 8 (c) Adopt, except as otherwise provided by law, administrative regulations not in  
9 conflict with the administrative regulations of the Cabinet for Health and  
10 Family Services necessary to protect the health of the people or to effectuate  
11 the purposes of this chapter or any other law relating to public health;
- 12 (d) Act in a general advisory capacity to the health officer on all matters relating  
13 to the local department of health;
- 14 (e) Hear and decide appeals from rulings, decisions, and actions of the local  
15 health department or health officer, in accordance with KRS Chapter 13B, if  
16 the aggrieved party makes written request therefor to the board within thirty  
17 (30) days after the ruling, decision, or action complained of; and
- 18 (f) Perform all other functions necessary to carry out the provisions of law and  
19 the regulations adopted pursuant thereto, relating to local boards of health; and
- 20 (2) Except as otherwise provided in subsection (1), all powers and authority of the local  
21 board of health under existing statutes are transferred to the county department of  
22 health.

23 Section 404. KRS 212.240 is amended to read as follows:

24 County departments of health shall:

- 25 (1) Administer and enforce in the county and in all cities and towns situated therein,  
26 except as otherwise provided by law, all applicable public health laws of the  
27 Commonwealth and all of the rules and regulations of the secretary of the Cabinet

1 for Health **and Family** Services and county board of health issued thereunder;

2 (2) Under the general supervision of the county board of health and the Cabinet for  
3 Health **and Family** Services, formulate, promote, establish, and execute policies,  
4 plans, and programs to safeguard the health of the people of the county and  
5 establish, maintain, implement, promote, and conduct facilities and services for the  
6 purpose of protecting the public health; and

7 (3) Make such statistical or other reports relating to the activities of the department as  
8 they may deem expedient or as may be required by the county board of health or the  
9 Cabinet for Health **and Family** Services.

10 Section 405. KRS 212.245 is amended to read as follows:

11 County, city-county, and district health departments may:

12 (1) Utilize available services, facilities, equipment, and personnel of the Cabinet for  
13 Health **and Family** Services or of the United States Public Health Service upon  
14 such terms of payment or reimbursement as are agreed on by the department and the  
15 Cabinet for Health **and Family** Services or the United States Public Health Service;

16 (2) Contract for services not otherwise available;

17 (3) Provide for the public health training and instruction of employees and compensate  
18 and defray the reasonable expenses of said employees while they are pursuing  
19 public health training courses approved by the Cabinet for Health **and Family**  
20 Services;

21 (4) Establish or contribute to a retirement system or fund for employees of the  
22 department, including any retirement system for state employees;

23 (5) Issue and require the heads of families and other persons to execute such orders as it  
24 considers expedient to prevent the outbreak and spread of communicable diseases,  
25 and to this end bring the infected population under prompt and proper treatment;

26 (6) Issue written orders directed to the owner or occupant of any property, or to any  
27 person, firm, or corporation whatever, commanding, within the time and manner

1 specified in the order, compliance with applicable public health laws of this state  
2 and all regulations of the Cabinet for Health and Family Services or the county  
3 board of health. Notwithstanding the provisions of this section and KRS 212.210,  
4 any health officer may institute and maintain mandatory or prohibitory injunction  
5 proceedings in the appropriate Circuit Courts of this state to abate nuisances that are  
6 or may be a menace to the health of the people of the state or community, and to  
7 compel compliance with the public health laws of this state and the rules and  
8 regulations of the Cabinet for Health and Family Services and the county board of  
9 health and the orders described in this section or in KRS 212.210;

10 (7) Through its health officers, representatives, and agents, enter upon any premises  
11 when necessary for the purpose of making inspections and investigations and view  
12 evidence and interrogate persons to the extent required in the performance of their  
13 duties and responsibilities. The department or the health officer thereof may issue  
14 subpoenas, subpoena duces tecum, and all necessary process in proceedings brought  
15 before or initiated by the department or board, and such process shall extend to all  
16 parts of the Commonwealth. Service of process may be made by certified mail,  
17 return receipt requested, or in the manner prescribed by the Rules of Civil  
18 Procedure;

19 (8) Provide administrative, investigative, and clerical services required by the local  
20 board of health;

21 (9) Cooperate with other health departments, agencies, and organizations in matters  
22 relating to public health;

23 (10) Elect coverage under the state's workers' compensation laws with the approval of  
24 the Cabinet for Health and Family Services; or

25 (11) Except as otherwise provided by law, do all other things reasonably necessary to  
26 protect and improve the health of the people.

27 Section 406. KRS 212.260 is amended to read as follows:

(1) The health officer of a county that does not have a county department of health shall enforce the rules and regulations of the Cabinet for Health and Family Services and county boards of health.

(2) The health officer of a county that has formed a county department of health shall:

(a) Devote his entire time to the duties of his office, and shall not engage in the private practice of medicine;

(b) Be secretary of the county board of health and keep full minutes of the proceedings of the county board of health in a book provided for that purpose;

(c) Be the chief administrative officer of the county health department.

Section 407. KRS 212.270 is amended to read as follows:

The county and Commonwealth's attorneys and the Attorney General, within their respective jurisdictions, shall represent the Cabinet for Health and Family Services and local boards of health in all matters relating to the enforcement of the health and medical laws and the performance of the duties of those boards, but when the secretary for health and family services deems it necessary, it may employ at its discretion special attorneys and inspectors to assist the county and Commonwealth's attorneys or the Attorney General and may pay reasonable compensation for the same from any unexpended funds at its disposal.

Section 408. KRS 212.370 is amended to read as follows:

When the board has been organized and the properties transferred, as provided in KRS 212.350 to 212.620, the board, throughout said county, including all municipalities therein, shall, except as otherwise provided by law, have exclusive control and operation, under the acts of the General Assembly of Kentucky, the ordinances, if any, of the legislative bodies of the municipalities in said county, the orders and resolutions, if any, of the fiscal court of said county, the regulations of the Cabinet for Health and Family Services, and the rules and regulations of the board, of all matters relating to institutions safeguarding the public health, including city or county hospitals, tuberculosis hospitals,



1 eruptive hospitals, chronic hospitals, medical care of the indigent, and all other matters  
2 affecting public health, including education of the public regarding such conditions, and  
3 the adoption of remedial measures, and the enforcement of all laws and regulations  
4 affecting public health, including existing ordinances of such city and, if any, of other  
5 municipalities in said county, and any ordinances which may be hereafter enacted by the  
6 legislative bodies of such municipalities, including laws and ordinances regulating  
7 sanitation, milk inspection, meat inspection, livestock inspection, wells, drinking water  
8 and fountains, vaults, vaccination and immunization, quarantine, and the maintenance of  
9 laboratories and clinics necessary for the promotion of public health. The board may  
10 expend funds for the purpose of conducting research work, including laboratory and  
11 biometrical work, and establishing, erecting, and maintaining laboratories and other  
12 buildings and all appurtenances thereto for research work as to the prevalence, causes,  
13 cure, and prevention of disease, and to that end the board is authorized to expend funds in  
14 the employment of such persons or organizations, scientists, or research experts as the  
15 board may deem proper. The board shall be charged with the responsibility for the  
16 collection from official and other sources and for the publication of such statistics and  
17 information as may be useful and necessary for the performance of its duties, and upon  
18 such other matters as such municipalities by ordinance and said county, by resolution of  
19 the fiscal court, respectively, or the Cabinet for Health **and Family** Services of Kentucky,  
20 by regulation, place under the control of said board. The board may charge reasonable  
21 fees to sewage treatment plant operators for the regulation and inspection of sewage  
22 treatment plants to be paid within twelve (12) months from the time of regulation and  
23 inspection.

24 Section 409. KRS 212.420 is amended to read as follows:

25 The director of health shall be a physician, qualified as a public health administrator as  
26 provided by standards set up by the secretary of the Cabinet for Health **and Family**  
27 Services of Kentucky and duly qualified and licensed or eligible for license as a medical

1 practitioner in the Commonwealth of Kentucky. He shall receive an annual salary of five  
2 thousand dollars (\$5,000), payable as other salaries are paid, and shall serve at the  
3 pleasure of the board. If said director of health is removed by the board he shall be  
4 notified thereof in writing, and before such removal shall become effective said director  
5 shall have ten (10) days within which to make a written request for a public hearing in  
6 regard thereto. The board shall not be required to hold a hearing unless so requested by  
7 said director. If no such request is made said removal shall become effective upon the  
8 expiration of said ten (10) day period. If such request is made said public hearing shall be  
9 held at the office of the board within ten (10) days after such request is received by the  
10 board, and said director shall not be removed until after such hearing has been held, and a  
11 decision rendered by the board. The board's decision shall be final.

12 Section 410. KRS 212.430 is amended to read as follows:

- 13 (1) The board shall fix the compensation of all agents and employees of the board, and  
14 such compensation shall be as nearly comparable as practicable with the  
15 compensations paid and received by corresponding or comparable civil employees  
16 of such city or county.
- 17 (2) The agents and employees of the board shall be employed and governed, as  
18 provided in this subsection, in accordance with the merit system. For the purpose of  
19 governing the employment, appointment, suspension, layoff, and dismissal of  
20 employees by the board, and personnel matters relating thereto, any law or laws, or  
21 amendments thereof, and any rules and regulations issued pursuant thereto,  
22 authorizing, creating, and governing any city board or commission empowered to  
23 administer and enforce civil service laws, rules, and regulations in and for such city  
24 are hereby made applicable to the personnel and personnel matters of the board to  
25 the extent of and with respect to corresponding and comparable offices, positions,  
26 and places of employment of and under the board. Such city board or commission is  
27 hereby authorized and directed to perform, without compensation from the board,

1 all things necessary to be done to accomplish the aforesaid purpose, including the  
2 creation and putting into effect of, and maintaining, a "classified service," in  
3 accordance with which the board will be governed in the employment of agents and  
4 employees and in the performance of its duties under this section. The director of  
5 health of the board shall function as appointing authority in and with respect to said  
6 personnel matters of the board. Provided, however, regulations of such city board or  
7 commission as may administer the civil service laws, rules, and regulations in such  
8 city, as applied to employees of the board, shall be not less stringent than those of  
9 the merit system of the Cabinet for Health and Family Services of Kentucky.

10 Section 411. KRS 212.550 is amended to read as follows:

11 The board shall install and maintain a modern and efficient system of accounting and  
12 keep financial records. The board, however, may select and use the finance department of  
13 such city to do its financial accounting and make its disbursements in such manner as  
14 may be agreed upon by and between the board and the director of finance of said city,  
15 which work shall be done by said finance department without compensation from the  
16 board. The Auditor of Public Accounts of the Commonwealth of Kentucky, the  
17 comptroller and inspector of such city, and the county auditor of such county,  
18 respectively, shall have access to the books and the records of the board, and upon the  
19 request of the Cabinet for Health and Family Services of Kentucky said Auditor of  
20 Public Accounts, or upon the direction of the legislative body of such city the said  
21 comptroller and inspector, or upon the direction of the fiscal court of such county the said  
22 county auditor, shall make an audit of the board's accounts and report back thereon.

23 Section 412. KRS 212.570 is amended to read as follows:

24 The board shall make an annual report of its fiscal and other operations to the Cabinet for  
25 Health and Family Services of Kentucky, the fiscal court of such county and to the  
26 legislative body of such city. Such report shall be filed within sixty (60) days after the  
27 close of the board's fiscal year and shall be accompanied by such information, tables, and

1 data as may be necessary to present a reasonably detailed report of the board's condition  
 2 and activities during the preceding fiscal year.

3 Section 413. KRS 212.600 is amended to read as follows:

4 All municipalities in any county of this Commonwealth in which county there is located a  
 5 city of the first class or a consolidated local government are hereby made subject to the  
 6 provisions of KRS 212.350 to 212.620, and it shall be the duty of the board created in  
 7 KRS 212.350 to make and enforce all reasonable regulations controlling or affecting the  
 8 health of citizens and residents of said county, including all municipalities therein, in  
 9 conformity with the provisions of KRS 212.350 to 212.620 and the laws of the  
 10 Commonwealth of Kentucky, the rules and regulations of the Cabinet for Health and  
 11 Family Services of Kentucky, and the ordinances of said municipalities now or hereafter  
 12 in effect and not in conflict with the provisions of KRS 212.350 to 212.620. Such  
 13 regulations shall, as nearly as may be practicable, be uniform throughout the county, both  
 14 within and without the said municipalities; provided, however, that nothing contained in  
 15 this section shall be construed to prevent the board from making specific health  
 16 regulations applying only to such section or sections of said county as may be deemed to  
 17 require special treatment. The board shall have power and authority to examine into all  
 18 nuisances, sources of filth, and causes or probable causes of sickness, which may in its  
 19 opinion be injurious to the health of the residents of such county or of any section or  
 20 sections thereof.

21 Section 414. KRS 212.626 is amended to read as follows:

22 As used in KRS 212.627 to 212.639, unless the context otherwise requires:

- 23 (1) "Board" means the urban-county board of health;
- 24 (2) "City-county board of health" means the city, county, or city-county board of health  
 25 existing in the county on July 1, 1977;
- 26 (3) "City-county department of health" means the city, county, or city-county  
 27 department of health existing in the county on July 1, 1977;

- 1 (4) "Commissioner" means the commissioner of health for the urban-county health  
2 department;
- 3 (5) "County" means any county of the Commonwealth containing any city with a  
4 population of over one hundred thousand (100,000) at the time of merger creating  
5 an urban-county form of government;
- 6 (6) "Department" means the urban-county department of health as created in KRS  
7 212.627 and its designated agents;
- 8 (7) "Cabinet[ ~~for Health Services~~]" means the Cabinet for Health and Family Services;
- 9 (8) "Mayor" means the chief executive officer of any county containing any city with a  
10 population of over one hundred thousand (100,000) at the time of merger creating  
11 an urban-county form of government; and
- 12 (9) "Person" means any person, or domestic or foreign individual corporation,  
13 government, or governmental subdivision or agency, business, estate, trust,  
14 partnership, unincorporated association, two (2) or more of any of the foregoing  
15 having a joint or common interest, or any other legal or commercial entity.
- 16 Section 415. KRS 212.628 is amended to read as follows:
- 17 (1) All real, personal, and mixed property belonging to the city-county board of health  
18 or city-county department of health is hereby transferred to the board and the city-  
19 county board of health or city-county department of health shall take all the  
20 necessary and proper steps to effect the legal transfer of title and possession of all  
21 such property to the board.
- 22 (2) When the board has been organized and all property transferred as provided under  
23 subsection (1) of this section, the board may control, operate, or monitor all matters  
24 within the county affecting public health including institutions established to  
25 safeguard the public health which may encompass city or county medical facilities,  
26 nursing homes, medical care of the indigent, and laboratories and clinics necessary  
27 for the promotion of public health and environmental protection and which are

1 required or permitted under the provisions of any act of the General Assembly,  
2 under any ordinances, orders, and resolutions of the legislative body of the county,  
3 or under any rules or regulations promulgated by the Cabinet for Health and Family  
4 Services, or by the board.

5 Section 416. KRS 212.636 is amended to read as follows:

6 (1) The board shall establish the compensation plan for all employees of the  
7 department, and such compensation shall be as nearly comparable as practicable  
8 with the compensation paid to and received by employees in comparable agencies.

9 (2) The employees of the department shall be employed and governed in accordance  
10 with a merit system. The board shall provide for the recruitment, examination,  
11 appointment, promotion, transfer, layoff, removal, discipline, compensation, and  
12 welfare of the department's employees by establishing a system of personnel  
13 administration based on merit principles and scientific methods whereby the rules  
14 and regulations of such system shall not be less stringent than those of the merit  
15 system of the Cabinet for Health and Family Services. Such system shall include a  
16 personnel board of five (5) members appointed by the board for two (2) year terms.  
17 The board shall select as members of the personnel board public-spirited citizens of  
18 recognized experience in the improvement of public administration and in the  
19 impartial selection of efficient public personnel. The personnel board shall be  
20 responsible for establishing rules and regulations for the purpose of governing the  
21 administration of the personnel system. The commissioner shall function as  
22 appointing authority in and with respect to the personnel matters of the board. The  
23 board shall have one (1) year from July 1, 1977, to implement such a system.

24 (3) Notwithstanding the provisions of KRS 61.510 to 61.692 and KRS 78.510 to  
25 78.852, on July 1, 1977, all regular full-time present and future public health  
26 employees of the department shall be included within the provisions of the state  
27 retirement system.

(4) When the board is qualified and organized as provided in KRS 212.626 to 212.639, all city-county department of health employees at that time shall be transferred to and continued in the service of the department created under KRS 212.626 to 212.639. Provided, however, that any and all of such employees who at that time are in the classified service of the city-county department of health shall be continued in the classified service of the department with the same status they have had in the classified service of the city-county department of health.

Section 417. KRS 212.639 is amended to read as follows:

(1) In order to provide sufficient funds for carrying out the provisions of KRS 212.626 to 212.639, the department shall be entitled to the same state aid as is provided for county and district health departments under KRS 212.120, upon notice of the establishment of the department being given to the Cabinet for Health and Family Services as provided in KRS 212.120, the legislative intent being hereby declared to be that funding from the Cabinet for Health and Family Services be continued at least at the same level and proportion after July 1, 1977, as before its implementation and that modification or alteration of the annual allotment not be made unless for causes enumerated under the provisions of KRS 212.120.

(2) In the event the sums derived from the appropriations, together with funds otherwise available from any other source to the board during any fiscal year, for its necessary expenditures in the maintenance and operation of the board, exceed its need for such expenditures during such fiscal year, any such unexpended funds at the end of the fiscal year shall be carried forward by the board to be used in paying for its operating costs and expenses for its ensuing year.

(3) The fiscal year of the board shall begin on July 1 of each year and shall end on June 30 of the following year.

(4) In a timely fashion governed by the requirements of the various funding sources such as the Cabinet for Health and Family Services, urban-county government, and

any and all other sources, the commissioner shall prepare for board approval a budget setting forth the total amounts of funds available from all sources for expenditures during the board's fiscal year, and setting forth the estimated expenditures of the board for the fiscal year.

- (5) The board shall install and maintain a system of accounting and shall file an annual report of its fiscal and other operations to the Cabinet for Health and Family Services and to the legislative body of the urban-county government after the close of the board's fiscal year. The annual report shall be accompanied by such information, tables, and data as may be necessary to present a reasonably detailed report of the board's condition and activities during the preceding year.

Section 418. KRS 212.660 is amended to read as follows:

- (1) After the establishment of a city-county health department as provided in KRS 212.640, the city-county board of health shall appoint a health officer, subject to the approval of the Cabinet for Health and Family Services. Other persons necessary for the work of the city-county health department shall be appointed in the same manner and subject to the same conditions as are other county health department employees.

- (2) Any city health department employee who is covered by a pension fund for civil service employees, as authorized by KRS 90.400 or any other section of the Kentucky Revised Statutes, prior to the consolidation of the city-county health department, may elect to continue such coverage thereafter in lieu of electing coverage under the Kentucky Employees Retirement System, KRS 61.510 to 61.705; provided, however, that all new employees of such consolidated city-county health department shall thereafter be covered by the Kentucky Employees Retirement System.

Section 419. KRS 212.710 is amended to read as follows:

Any city-county department of health established under KRS 212.350 or 212.640 shall be



1 entitled to the same state aid as is provided for county and district health departments  
2 under KRS 212.120, upon notice of the establishment of the department being given to  
3 the Cabinet for Health and Family Services as provided in KRS 212.120.

4 Section 420. KRS 212.725 is amended to read as follows:

5 If, after the establishment of the public health taxing district, as provided in KRS  
6 212.720, the tax-levying authorities of the district, in the opinion of the county or city-  
7 county board of health, do not appropriate an amount sufficient to meet the public health  
8 needs of the county or the city-county health department or do not appropriate an amount  
9 sufficient to meet the standards prescribed by the Cabinet for Health and Family Services  
10 for health departments, the county or city-county board of health, acting as the governing  
11 body of the taxing district, shall with the approval of the Cabinet for Health and Family  
12 Services, impose by resolution a special ad valorem public health tax in such amount that  
13 it deems sufficient, but not in excess of the maximum amount approved by the electorate  
14 as provided for in KRS 212.720. The fiscal court shall upon receipt of a duly certified  
15 copy of said resolution, include in the next county ad valorem tax levy said special public  
16 health tax imposed by the county or city-county board of health which shall be in addition  
17 to all other county ad valorem taxes. Said special public health tax shall be collected in  
18 the same manner as are other county ad valorem taxes and turned over to the county or  
19 city-county board of health to be used solely for the maintenance and operation of the  
20 county or city-county health department.

21 Section 421. KRS 212.755 is amended to read as follows:

22 (1) If, after the establishment of the public health taxing district as provided for in this  
23 section and KRS 212.750, the tax-levying authorities of the district, in the opinion  
24 of the county or city-county board of health or urban-county department of health,  
25 do not appropriate an amount sufficient to meet the public health needs of the  
26 county or the city-county health department or urban-county department of health or  
27 do not appropriate an amount sufficient to meet the standards prescribed by the

Cabinet for Health and Family Services for local health departments, the county or city-county board of health or urban-county department of health, acting as the governing body of the taxing district shall, with the approval of the Cabinet for Health and Family Services, request the fiscal court or urban-county government to impose by resolution a special ad valorem public health tax in an amount that it deems sufficient, but not in excess of ten cents (\$0.10) per one hundred dollars (\$100) of full value assessed valuation. The fiscal court or urban-county government may, upon receipt of a duly certified copy of the resolution, include in the next county ad valorem tax levy the special public health tax imposed by the county or city-county board of health or urban-county department of health, which shall be in addition to all other county ad valorem taxes. If levied by the fiscal court or urban-county government, the special public health tax shall be collected in the same manner as are other county ad valorem taxes and turned over to the county or city-county board of health or urban-county department of health to be used solely for the maintenance and operation of the county, city-county, or district health department or urban-county department of health and as provided in KRS 212.740.

- (2) Public health taxing districts organized pursuant to the provisions of KRS 212.720 to 212.740 or organized pursuant to this section and KRS 212.750 shall not be subject to the provisions of the compensating tax rate as defined by KRS 132.010 nor to Chapter 2, 1965 First Extraordinary Session of the General Assembly; provided, however, that no public health taxing district shall impose a rate higher than ten cents (\$0.10) per one hundred dollars (\$100) of full value assessed valuation.

Section 422. KRS 212.780 is amended to read as follows:

As used in KRS 212.780 to 212.794 the following definitions shall apply:

- (1) "Board" means independent district board of health as created in KRS 212.780 to 212.794;

- 1 (2) "Cabinet" means Cabinet for Health and Family Services;
- 2 (3) "County board of health" means a local board of health as defined by KRS 212.640
- 3 or 212.020;
- 4 (4) "Department" means independent district department of health created in KRS
- 5 212.780 to 212.794;
- 6 (5) "Director" means the district director of health;
- 7 (6) "District board of health" means the district board of health as established pursuant
- 8 to KRS 212.810 to 212.930;
- 9 (7) "District department of health" means the district department of health as
- 10 established pursuant to KRS 212.810 to 212.930;
- 11 (8) "Independent district board of health" means the independent district board of
- 12 health as created in KRS 212.780 to 212.794;
- 13 (9) "Judge/executive" means the county judge/executive of any county fiscal court as
- 14 defined in KRS 67.700 to 67.710; and
- 15 (10) "Metropolitan statistical area" (MSA) means metropolitan statistical area as defined
- 16 by the United States Bureau of the Census, United States Department of Commerce.

17 Section 423. KRS 212.830 is amended to read as follows:

18 As used in 212.810 to 212.930, unless the content requires otherwise:

- 19 (1) "Cabinet" means the Cabinet for Health and Family Services; and
- 20 (2) "Health officer" means the chief administrative officer of the district health
- 21 department.

22 Section 424. KRS 212.855 is amended to read as follows:

- 23 (1) Except for district health departments which serve a county containing a city of the
- 24 first class, an urban-county government, or which are part of an interstate
- 25 metropolitan statistical area where the Kentucky population of the metropolitan
- 26 statistical area exceeded two hundred fifty thousand (250,000) people on July 1,
- 27 1989, a district board of health shall consist of the following members:

- 1 (a) The county judge/executive or his designee from each county in the district as
- 2 an ex officio voting member; and
- 3 (b) One (1) additional resident member per county per fifteen thousand (15,000)
- 4 population or fraction thereof, which shall include the mayor, city manager, or
- 5 the designee of the city manager of each city of the second class as an ex
- 6 officio voting member, except that the total number of members from any
- 7 county in a district shall not exceed seven (7) members.
- 8 (2) All members except for the county judges/executive and the mayors of second class
- 9 cities shall be appointed by the county or city-county boards of health from the
- 10 membership of each county or city-county board of health.
- 11 (a) The secretary of the Cabinet for Health and Family Services shall notify the
- 12 chairman of each county or city-county board of health in the district of the
- 13 name of each member from that county whose term is expiring.
- 14 (b) Upon receipt of the notification, under paragraph (a) of this subsection, each
- 15 county or city-county board of health shall appoint one (1) of its members to
- 16 fill each vacant position from that county. At least twenty-five percent (25%)
- 17 or the nearest whole number to twenty-five percent (25%) of the appointed
- 18 members of the district board shall be doctors of medicine or osteopathy
- 19 qualified, licensed, and practicing in the Commonwealth, and there shall be at
- 20 least one (1) qualified, licensed, and practicing registered nurse, one (1)
- 21 qualified, licensed, and practicing dentist, one (1) licensed pharmacist, one (1)
- 22 qualified licensed engineer engaged in the practice of civil or sanitary
- 23 engineering, one (1) qualified, licensed, and practicing optometrist, and one
- 24 (1) qualified, licensed, and practicing veterinarian, when available, among the
- 25 membership of the board. The remaining members of the district board shall
- 26 be concerned community leaders residing within the county from which they
- 27 are to be representatives.

1 (c) The chairman of the county or city-county board of health shall inform the  
2 secretary within forty-five (45) days of receipt of this notification of the names  
3 of the county or city-county board of health members appointed to serve on  
4 the district board. Appointed members of district boards of health shall not  
5 begin to serve on a district board of health until the time the secretary has  
6 certified their eligibility to serve on the board.

7 (3) If a vacancy exists upon the district board, the vacancy shall be filled in a manner  
8 consistent with subsection (2) of this section, with the appointed member to fill the  
9 vacant seat coming from the county in which the vacancy occurs and the appointed  
10 member resides. If the term of a member on the county board of health expires or  
11 the member cannot complete the term on the county board, the seat on the district  
12 board of health shall be declared vacant and the county or city-county board of  
13 health shall appoint another of its members to fill any unexpired portion of the term  
14 on the district board.

15 (4) The appointed members of the district board of health shall hold office for a term of  
16 two (2) years ending on December 31 or until their successors are appointed. The  
17 terms of the first appointments shall be staggered so that members whose terms  
18 expire on June 30, 1992, shall be replaced with appointed members whose terms  
19 expire on December 31, 1994. Members whose terms expire on June 30, 1993, shall  
20 be replaced with appointed members whose terms expire on December 31, 1995.

21 (5) The secretary shall remove any appointed member who fails to attend three (3)  
22 consecutive scheduled meetings.

23 Section 425. KRS 212.870 is amended to read as follows:

24 (1) A district health officer may employ and fix the compensation of, by contract or  
25 otherwise, subject to the approval of the cabinet all medical, administrative,  
26 technical, clerical, professional, and other employees necessary for the maintenance  
27 and operation of the district health department in accordance with standards and

merit system provisions prescribed by the cabinet.

(2) In the absence of a district health officer the secretary of the Cabinet for Health and Family Services or his duly appointed representative shall serve as health officer for the district health department.

(3) All employees of county health departments which join a district health department shall become employees of the district health department.

Section 426. KRS 212.880 is amended to read as follows:

District health departments shall:

(1) Administer and enforce in the district, except as otherwise provided by law, all applicable public health laws of the Commonwealth and all rules and regulations of the Cabinet for Health and Family Services and the rules and regulations of the district board of health;

(2) With the advice of the district board of health and the cabinet, formulate, promote, establish, and execute policies, plans, and programs to safeguard the health of the people; and

(3) Make such statistical or other studies and reports relating to the activities of the cabinet as may be deemed expedient or as may be required by the district board of health or the cabinet.

Section 427. KRS 213.011 is amended to read as follows:

As used in this chapter, unless the context requires otherwise:

(1) "Cabinet" means the Cabinet for Health and Family Services;

(2) "Dead body" means a human body or parts of the human body from the condition of which it reasonably may be concluded that death recently occurred;

(3) "Fetal death" means death prior to the complete expulsion or extraction from its mother of a product of human conception, irrespective of the duration of pregnancy; the death is indicated by the fact that after such expulsion or extraction the fetus does not breathe or show any other evidence of life such as beating of the heart,

- 1       pulsation of the umbilical cord, or definite movement of voluntary muscles. This  
 2       definition shall exclude induced termination of pregnancy;
- 3       (4) "File" means the presentation of a vital record provided for in this chapter for  
 4       registration by the ~~Office of~~ Vital Statistics **Branch**;
- 5       (5) "Final disposition" means the burial, interment, cremation, removal from the  
 6       Commonwealth, or other authorized disposition of a dead body or fetus;
- 7       (6) "Induced termination of pregnancy" means the purposeful interruption of pregnancy  
 8       with the intention other than to produce a live-born infant or to remove a dead fetus  
 9       and which does not result in a live birth. This definition shall exclude management  
 10      of prolonged retention of product of conception following fetal death;
- 11      (7) "Institution" means any establishment, public or private, which provides inpatient  
 12      medical, surgical, or diagnostic care or treatment or nursing, custodial, or  
 13      domiciliary care, or to which persons are committed by law;
- 14      (8) "Live birth" means the complete expulsion or extraction from its mother of a  
 15      product of human conception, irrespective of the duration of pregnancy which, after  
 16      the expulsion or extraction, breathes, or shows any other evidence of life such as  
 17      beating of the heart, pulsation of the umbilical cord, or definite movement of  
 18      voluntary muscles, whether or not the umbilical cord has been cut or the placenta is  
 19      attached;
- 20      (9) "Provisional death certificate" means an interim certificate identifying the deceased  
 21      and authorizing a funeral director, or person acting as such, to take custody of the  
 22      body and, except for cremation, to make final disposition;
- 23      (10) "Registration" means the acceptance by the ~~Office of~~ Vital Statistics **Branch** and  
 24      the incorporation of vital records provided for in this chapter into its official  
 25      records;
- 26      (11) "System of vital statistics" means the registration, collection, preservation,  
 27      amendment, and certification of vital records and the collection of other reports

1 required by this chapter;

2 (12) "Secretary" means the secretary for health and family services;

3 (13) "Sudden infant death syndrome" means the death of an ostensibly healthy child who  
4 is two (2) weeks of age or older but less than three (3) years of age, which occurs  
5 suddenly and unexpectedly, with no known or apparent cause, and which remains  
6 unexplained after the performance of an autopsy;

7 (14) "Vital records" means certificates or reports of birth, death, fetal death, marriage,  
8 dissolution of marriage, or annulment, and data related thereto;

9 (15) "Vital statistics" means the data derived from certificates and reports of birth, death,  
10 fetal death, induced termination of pregnancy, marriage, dissolution of marriage,  
11 and related reports;

12 (16) "Certificate" means the certificate of birth, death, fetal death, marriage, dissolution  
13 of marriage, or annulment as required by this chapter;

14 (17) "Commission" means the Commission for Children with Special Health Care  
15 Needs;

16 (18) "Hard of hearing infant" means a child at birth with a significant hearing loss which  
17 prevents the acquisition of speech and language through normal channels; and

18 (19) "Hearing risk certificate" means the certificate that includes questions which  
19 identify newborn babies with a higher risk than normal for hearing loss.

20 Section 428. KRS 213.016 is amended to read as follows:

21 There shall be established in the Department for Public Health, Cabinet for Health and  
22 Family Services, a vital statistics program which shall maintain and operate the only  
23 official system of vital statistics in the Commonwealth.

24 Section 429. KRS 213.021 is amended to read as follows:

25 The Cabinet for Health and Family Services shall adopt administrative regulations  
26 pursuant to KRS Chapter 13A for the purpose of carrying out the provisions of this  
27 chapter.



1       Section 430. KRS 213.026 is amended to read as follows:

2       The secretary for health **and family** services shall designate the state registrar of vital  
3       statistics, hereinafter referred to as "state registrar," in accordance with merit system laws  
4       and administrative regulations.

5       Section 431. KRS 213.031 is amended to read as follows:

6       The state registrar, under the supervision of the commissioner of health, shall:

- 7       (1) Administer and enforce the provisions of this chapter and the administrative  
8       regulations issued hereunder; issue instructions for the efficient administration of  
9       the system of vital statistics; direct the system and ~~the~~ ~~Office of~~ Vital Statistics  
10       **Branch** and be custodian of its records; supervise the activities of all persons when  
11       they are engaged in the operation of the system; and conduct training programs to  
12       promote uniformity of the system's policy and procedures throughout the  
13       Commonwealth;
- 14       (2) With the approval of the cabinet, design, furnish, and distribute forms required by  
15       this chapter and the administrative regulations issued hereunder, or prescribe other  
16       means for transmission of data to accomplish the purpose of complete and accurate  
17       reporting and registration;
- 18       (3) Coordinate and maintain in accordance with administrative regulations promulgated  
19       pursuant to this subsection, a system by which a child's Social Security number is  
20       transferred by the ~~the~~ ~~Office of~~ Vital Statistics **Branch** to the Department of  
21       Education after receiving parental permission for the number to be used for  
22       planning and tracking purposes by the Department of Education, local school  
23       districts, and the office. The regulations, at a minimum, shall establish a process to  
24       allow a parent or guardian when completing a certificate of birth to request that a  
25       Social Security number be assigned the child and that the number be automatically  
26       transmitted to the Department of Education for student identification purposes;
- 27       (4) Assist in preparing and publishing reports of vital statistics of the Commonwealth

- 1 and other reports as required;
- 2 (5) Provide to local health departments copies of or data derived from certificates and  
3 reports required under this chapter. The state registrar shall establish a schedule  
4 with each local health department for transmittal of the copies or data. The copies  
5 shall remain the property of the ~~Office of~~ Vital Statistics **Branch**, and the uses  
6 which may be made of them and the period of their retention in the county shall be  
7 governed by the state registrar;
- 8 (6) Prepare and maintain a complete continuous index of all vital records registered  
9 under this chapter and provide, at not more than two (2) year intervals, a copy of the  
10 index to each local registrar; and
- 11 (7) Investigate cases of irregularity or violation of this chapter and when the cabinet  
12 deems it necessary, report violations to the Commonwealth's attorney of the proper  
13 county for prosecution.
- 14 Section 432. KRS 213.036 is amended to read as follows:
- 15 (1) Each county in the Commonwealth shall constitute a registration district for the  
16 purposes of carrying out the provisions of this chapter.
- 17 (2) The secretary shall, upon the recommendation of the state registrar, designate a  
18 local registrar in each registration district to aid in the efficient administration of the  
19 system of vital statistics. The local registrar shall be an employee of the local health  
20 department. The designation may be revoked by the secretary.
- 21 (3) The local registrar may designate one (1) or more employees of the local health  
22 department as deputy registrar. The local registrar may also appoint persons as  
23 deputy registrars who are not employees of the local health department if, in the  
24 opinion of the cabinet, the appointments are necessary. All appointments shall be  
25 subject to the approval of the state registrar.
- 26 (4) The local registrar shall supply blank forms of certificates to persons who require  
27 them. The local registrar shall carefully examine each certificate of birth or fetal

death when presented for filing, to ensure the record has been properly completed. If the certificates are properly completed the local registrar shall sign as local registrar and attest to the date of filing. The local registrar shall also make a complete and accurate copy of each certificate to be filed and permanently preserved in the local registrar's office as the local record, in the manner directed by the Cabinet for Health and Family Services. When a birth or fetal death certificate filed with a local registrar indicates the residence of the mother or the deceased to be in another county, the registrar shall mail a copy of the certificate to the local registrar of the county of residence.

- (5) The local registrar shall provide for voluntary acknowledgment of paternity services in accordance with 42 U.S.C. secs. 651 et seq., and transmit original certificates and affidavits of paternity to the ~~Office of~~ Vital Statistics Branch as directed by the state registrar.

Section 433. KRS 213.046 is amended to read as follows:

- (1) A certificate of birth for each live birth which occurs in the Commonwealth shall be filed with the local registrar within ten (10) days after such birth and shall be registered if it has been completed and filed in accordance with this section. All certificates shall be typewritten. No certificate shall be held to be complete and correct that does not supply all items of information called for in this section and in KRS 213.051, or satisfactorily account for their omission except as provided in KRS 199.570(3). If a certificate of birth is incomplete, the local registrar shall immediately notify the responsible person and require that person to supply the missing items, if that information can be obtained.
- (2) When a birth occurs in an institution or en route thereto, the person in charge of the institution or that person's designated representative, shall obtain the personal data, prepare the certificate, secure the signatures required, and file the certificate as directed in subsection (1) of this section or as otherwise directed by the state

1 registrar within the required ten (10) days. The physician or other person in  
 2 attendance shall provide the medical information required for the certificate and  
 3 certify to the fact of birth within ten (10) days after the birth. If the physician or  
 4 other person in attendance does not certify to the fact of birth within the ten (10) day  
 5 period, the person in charge of the institution shall complete and sign the certificate.

6 (3) When a birth occurs in a hospital or en route thereto to a woman who is unmarried,  
 7 the person in charge of the hospital or that person's designated representative shall  
 8 immediately before or after the birth of a child, except when the mother or the  
 9 alleged father is a minor:

- 10 (a) Meet with the mother prior to the release from the hospital;
- 11 (b) Attempt to ascertain whether the father of the child is available in the hospital,  
 12 and, if so, to meet with him, if possible;
- 13 (c) Provide written materials and oral, audio, or video materials about paternity;
- 14 (d) Provide forms necessary to voluntarily establish paternity;
- 15 (e) Provide a written and an oral, audio, or video description of the rights and  
 16 responsibilities, the alternatives to, and the legal consequences of  
 17 acknowledging paternity;
- 18 (f) Provide written materials and information concerning genetic paternity  
 19 testing;
- 20 (g) Provide an opportunity to speak by telephone or in person with staff who are  
 21 trained to clarify information and answer questions about paternity  
 22 establishment;
- 23 (h) If the parents wish to acknowledge paternity, require the voluntary  
 24 acknowledgment of paternity obtained through the hospital-based program be  
 25 signed by both parents and be authenticated by a notary public;
- 26 (i) Provide the unmarried mother, and, if possible, the father, with the affidavit of  
 27 paternity form;

- 1 (j) Upon both the mother's and father's request, help the mother and father in
- 2 completing the affidavit of paternity form;
- 3 (k) Upon both the mother's and father's request, transmit the affidavit of paternity
- 4 to the local registrar in the county in which the birth occurred; and
- 5 (l) In the event that the mother or the alleged father is a minor, information set
- 6 forth in this section shall be provided in accordance with Civil Rule 17.03 of
- 7 the Kentucky Rules of Civil Procedure.

8 If the mother or the alleged father is a minor, the paternity determination shall be  
 9 conducted pursuant to KRS Chapter 406.

10 (4) The voluntary acknowledgment-of-paternity forms designated by the ~~the Office of~~  
 11 Vital Statistics **Branch** shall be the only documents having the same weight and  
 12 authority as a judgment of paternity.

13 (5) The Cabinet for Health **and Family** Services shall:

- 14 (a) Provide to all public and private birthing hospitals in the state written
- 15 materials and audio or video materials concerning paternity establishment
- 16 forms necessary to voluntarily acknowledge paternity;
- 17 (b) Provide copies of a written description and an audio or video description of
- 18 the rights and responsibilities of acknowledging paternity; and
- 19 (c) Provide staff training, guidance, and written instructions regarding voluntary
- 20 acknowledgment of paternity as necessary to operate the hospital-based
- 21 program.

22 (6) When a birth occurs outside an institution, the certificate shall be prepared and filed  
 23 by one (1) of the following in the indicated order of priority:

- 24 (a) The physician in attendance at or immediately after the birth; or, in the
- 25 absence of such a person,
- 26 (b) Any other person in attendance at or immediately after the birth; or, in the
- 27 absence of such a person,

- 1 (c) The father, the mother, or in the absence of the father and the inability of the  
2 mother, the person in charge of the premises where the birth occurred or of the  
3 institution to which the child was admitted following the birth.
- 4 (7) No physician, midwife, or other attendant shall refuse to sign or delay the filing of a  
5 birth certificate.
- 6 (8) If a birth occurs on a moving conveyance within the United States and the child is  
7 first removed from the conveyance in the Commonwealth, the birth shall be  
8 registered in the Commonwealth, and the place where the child is first removed  
9 shall be considered the place of birth. If a birth occurs on a moving conveyance  
10 while in international waters or air space or in a foreign country or its air space and  
11 the child is first removed from the conveyance in the Commonwealth, the birth shall  
12 be registered in the Commonwealth, but the certificate shall show the actual place  
13 of birth insofar as can be determined.
- 14 (9) The following provisions shall apply if the mother was married at the time of either  
15 conception or birth or anytime between conception and birth:
- 16 (a) If there is no dispute as to paternity, the name of the husband shall be entered  
17 on the certificate as the father of the child. The surname of the child shall be  
18 any name chosen by the parents; however, if the parents are separated or  
19 divorced at the time of the child's birth, the choice of surname rests with the  
20 parent who has legal custody following birth.
- 21 (b) If the mother claims that the father of the child is not her husband and the  
22 husband agrees to such a claim and the putative father agrees to the statement,  
23 a three (3) way affidavit of paternity may be signed by the respective parties  
24 and duly notarized. The state registrar of vital statistics shall enter the name of  
25 a nonhusband on the birth certificate as the father and the surname of the child  
26 shall be any name chosen by the mother.
- 27 (c) If a question of paternity determination arises which is not resolved under

1 paragraph (b) of this subsection, it shall be settled by the District Court.

2 (10) The following provisions shall apply if the mother was not married at the time of  
3 either conception or birth or between conception and birth or the marital  
4 relationship between the mother and her husband has been interrupted for more than  
5 ten (10) months prior to the birth of the child:

6 (a) The name of the father shall not be entered on the certificate of birth. The state  
7 registrar shall upon acknowledgment of paternity by the father and with  
8 consent of the mother pursuant to KRS 213.121, enter the father's name on the  
9 certificate. The surname of the child shall be any name chosen by the mother  
10 and father. If there is no agreement, the child's surname shall be determined by  
11 the parent with legal custody of the child.

12 (b) If an affidavit of paternity has been properly completed and the certificate of  
13 birth has been filed accordingly, any further modification of the birth  
14 certificate regarding the paternity of the child shall require an order from the  
15 District Court.

16 (c) In any case in which paternity of a child is determined by a court order, the  
17 name of the father and surname of the child shall be entered on the certificate  
18 of birth in accordance with the finding and order of the court.

19 (d) In all other cases, the surname of the child shall be any name chosen by the  
20 mother.

21 (11) If the father is not named on the certificate of birth, no other information about the  
22 father shall be entered on the certificate. In all cases, the maiden name of the  
23 gestational mother shall be entered on the certificate.

24 (12) Any child whose surname was restricted prior to July 13, 1990, shall be entitled to  
25 apply to the state registrar for an amendment of a birth certificate showing as the  
26 surname of the child, any surname chosen by the mother or parents as provided  
27 under this section.

(13) The birth certificate of a child born as a result of artificial insemination shall be completed in accordance with the provisions of this section.

(14) Each birth certificate filed under this section shall include all Social Security numbers that have been issued to the parents of the child.

(15) Either of the parents of the child, or other informant, shall attest to the accuracy of the personal data entered on the certificate in time to permit the filing of the certificate within ten (10) days prescribed in subsection (1) of this section.

(16) When a birth certificate is filed for any birth that occurred outside an institution, the Cabinet for Health and Family Services shall forward information regarding the need for an auditory screening for an infant and a list of options available for obtaining an auditory screening for an infant. The list shall include the Commission for Children with Special Health Care Needs, local health departments as established in KRS Chapter 212, hospitals offering obstetric services, alternative birthing centers required to provide an auditory screening under KRS 216.2970, and licensed audiologists, and shall specify the hearing methods approved by the Early Child Development Authority in accordance with KRS 216.2970.

Section 434. KRS 213.047 is amended to read as follows:

The Cabinet for Health and Family Services shall pay the sum of ten dollars (\$10) to an institution for each completed affidavit-of-paternity form returned to the local registrar by the institution, pursuant to KRS 213.046, limited to the appropriated funds for the purpose of KRS 213.046.

Section 435. KRS 213.051 is amended to read as follows:

(1) The person who assumes the custody of a live-born infant of unknown parentage shall report on a form and in a manner prescribed by the state registrar within ten (10) days to the Cabinet for Health and Family Services the following information:

(a) The date and place of finding;

(b) Sex, color or race, and approximate birth date of child;



1 (c) Name and address of the person or institution with which the child has been  
2 placed for care;

3 (d) Name given to the child by the custodian of the child; and

4 (e) Other data as required by the state registrar to complete a birth certificate.

5 (2) The place where the child was found shall be entered as the place of birth.

6 (3) A report registered under this section shall constitute the certificate of birth for the  
7 child.

8 (4) If the child is identified and a certificate of birth is found or obtained, the report  
9 registered under this section shall be placed in a special file and shall not be subject  
10 to inspection except upon order of a Circuit Court.

11 Section 436. KRS 213.076 is amended to read as follows:

12 (1) A certificate of death or a provisional certificate of death for each death which  
13 occurs in the Commonwealth shall be filed with the cabinet or as otherwise directed  
14 by the state registrar prior to final disposition, and it shall be registered if it has been  
15 completed and filed in accordance with this section. The funeral director, or person  
16 acting as such, who first takes custody of a dead body shall be responsible for filing  
17 the certificate of death. The funeral director, or person acting as such, shall obtain  
18 the required personal and statistical particulars from the person best qualified to  
19 supply them over the signature and address of the informant. The funeral director,  
20 or person acting as such, shall within five (5) days of the death, present the  
21 certificate to the attending physician, if any, or to the health officer or coroner as  
22 directed by the state registrar, for the medical certificate of the cause of death and  
23 other particulars necessary to complete the record as required by this chapter.

24 (a) It shall be unlawful for an institution to release a dead human body until the  
25 funeral director, or person acting as such, has completed and filed with the  
26 local registrar or person in charge of the institution, a provisional certificate of  
27 death. If death occurs outside an institution, the provisional certificate shall be

1 filed with the local registrar by the funeral director, or person acting as such,  
2 prior to final disposition of the dead body. A copy of the provisional  
3 certificate of death signed by the person with whom it was filed, shall  
4 constitute authority for the possession, transportation, and, except for  
5 cremation, final disposition of the body.

6 (b) All persons having in their possession a completed provisional certificate of  
7 death shall file the certificate at not more than weekly intervals with the local  
8 registrar.

9 (c) If the place of death is unknown but the dead body is found in the  
10 Commonwealth, the certificate of death shall be completed and filed in  
11 accordance with this section. The place where the body is found shall be  
12 shown as the place of death. If the date of death is unknown, it shall be  
13 determined by approximation subject to amendment upon completion of any  
14 postmortem examination required to be performed.

15 (d) If death occurs in a moving conveyance in the United States and the body is  
16 first removed from the conveyance in the Commonwealth, the death shall be  
17 registered in Kentucky, and the place where it is first removed shall be  
18 considered the place of death. If a death occurs on a moving conveyance while  
19 in international waters or air space or in a foreign country or its air space, and  
20 the body is first removed from the conveyance in the Commonwealth, the  
21 death shall be registered in Kentucky, but the certificate shall show the actual  
22 place of death insofar as can be determined.

23 (2) If any certificate of death is incomplete or unsatisfactory, the state registrar shall call  
24 attention to the defects in the certificate and require the person responsible for the  
25 entry to complete or correct it. The state registrar may also require additional  
26 information about the circumstances and medical conditions surrounding a death in  
27 order to properly code and classify the underlying cause.

- 1 (3) The medical certification shall be completed, signed, and returned to the funeral  
2 director within five (5) working days after presentation to the physician, dentist, or  
3 chiropractor in charge of the patient's care for the illness or condition which resulted  
4 in death, except when inquiry is required by KRS 72.400 to 72.475. In such cases,  
5 the coroner shall complete and sign the certificate within five (5) days after  
6 receiving results of the inquiry as required by KRS 72.400 to 72.475. In the absence  
7 of the physician, dentist, or chiropractor, or with such person's approval, the  
8 certificate may be completed and signed by his associate physician, dentist, or  
9 chiropractor, or the chief medical officer of the institution in which death occurred,  
10 or the physician who performed an autopsy upon the decedent, or a physician  
11 employed by the local health department, if the individual has access to the medical  
12 history of the case and death is due to natural causes.
- 13 (4) If death occurs more than thirty-six (36) hours after the decedent was last treated or  
14 attended by a physician, dentist, or chiropractor, the case shall be referred to the  
15 coroner for investigation to determine and certify the cause of death. In the event  
16 that a coroner is not available to sign the certificate and there is no duly appointed  
17 deputy, the county judge/executive shall appoint a competent person to investigate  
18 the death and certify to its cause.
- 19 (5) (a) The physician, dentist, chiropractor, or coroner who certifies to the cause of  
20 death shall return the certificate to the funeral director, or person acting as  
21 such, who, in turn, shall file the certificate directly with the ~~the [Office of]~~ Vital  
22 Statistics **Branch**. Any certified copies of the record requested at the time of  
23 filing shall be issued in not more than two (2) working days.
- 24 (b) In the case of a death in which diabetes was an underlying cause or  
25 contributing condition, diabetes shall be listed in the appropriate location on  
26 the death certificate by the physician, dentist, chiropractor, or coroner who  
27 certifies to the cause of death.

(c) In the case of a death in which diabetes was an immediate, underlying, or contributing cause of or condition leading to death, the physician, dentist, chiropractor, or coroner who certifies to the cause of death shall check "yes" for each of the following questions on the death certificate:

1. "Did the deceased have diabetes?"; and
2. "Was diabetes an immediate, underlying, or contributing cause of or condition leading to death?".

(6) The ~~Office of~~ Vital Statistics **Branch** shall provide self-addressed, color-coded envelopes for the funeral homes in the Commonwealth of Kentucky.

(7) Three (3) free verification-of-death statements shall be provided to the funeral director by the ~~Office of~~ Vital Statistics **Branch** for every death in the Commonwealth of Kentucky.

(8) The body of any person whose death occurs in Kentucky shall not be interred, deposited in a vault or tomb, cremated, or otherwise disposed of, or removed from or into any registration district, until a provisional certificate of death has been filed with the local registrar of the registration district in which the death occurs. If the death occurred from a disease declared by the Cabinet for Health **and Family** Services to be infectious, contagious, or communicable and dangerous to the public health, no permit for the removal or other disposition of the body shall be granted by the registrar except under conditions prescribed by the Cabinet for Health **and Family** Services and the local health department. The Cabinet for Health **and Family** Services shall identify by regulation those communicable diseases which require blood and body fluid precautions. If a person who has been diagnosed as being infected with a communicable disease for which blood and body fluid precautions are required, dies within a health facility as defined in KRS 216B.015, the facility shall notify any embalmer or funeral director to whom the body will be transported of the need for such precautions. The notice shall be provided by

1 including the statement "Blood and Body Fluid Precautions" on the provisional  
2 report-of-death form as prescribed by the Cabinet for Health and Family Services.  
3 Lack of this notice shall not relieve any embalmer or funeral director from taking  
4 universal blood and body fluid precautions as are recommended by the United  
5 States Department of Health and Human Services, Centers for Disease Control for  
6 Morticians' Services. No embalmer or funeral director shall charge more for  
7 embalming the remains of a person with a communicable disease which requires  
8 blood and body fluid precautions than the price for embalming services listed on the  
9 price list funeral providers are required to maintain and provide to consumers  
10 pursuant to 16 C.F.R. Sec. 453.2 (1988).

11 (9) A burial-transit permit for the final disposition issued under the law of another state  
12 which accompanies a dead body or fetus brought into the Commonwealth shall be  
13 the authority for final disposition of the body or fetus in the Commonwealth and  
14 may be accepted in lieu of a certificate of death. There shall be noted on the face of  
15 the record made for return to the local registrar that the body was shipped to  
16 Kentucky for interment and the actual place of death.

17 (10) Nothing in this section shall be construed to delay, beyond a reasonable time, the  
18 interment or other disposition of a body unless the services of the coroner or the  
19 health officer are required or the Department for Public Health deems it necessary  
20 for the protection of the public health. If compliance with this section would result  
21 in unreasonable delay in the disposition of the body the funeral director, or person  
22 acting as such, shall file with the local registrar or deputy registrar prior to interment  
23 a provisional certificate of death which shall contain the name, date, and place of  
24 death of the deceased, the name of the medical certifier, and an agreement to furnish  
25 within ten (10) days a complete and satisfactory certificate of death.

26 (11) No sexton or other person in charge of any place in which interment or other  
27 disposition of dead bodies is made shall inter or allow interment or other disposition

of a dead body or fetus unless it is accompanied by a copy of the provisional certificate of death. The sexton, or if there is no sexton, the funeral director, or person acting as such, shall enter on the provisional certificate over his signature, the date, place, and manner of final disposition and file the certificate within five (5) days with the local registrar.

(12) Authorization for disinterment, transportation, and reinterment or other disposition shall be required prior to disinterment of any human remains. The authorization shall be issued by the state registrar upon proper application. The provisions of this subsection shall apply to all manners of disposition except cremation and without regard for the time and place of death. The provisions of KRS 381.765 shall not apply to remains removed for scientific study and the advancement of knowledge.

(13) After a death certificate has been on file for five (5) years, it may not be changed in any manner except upon order of a court. Prior to that time, requests for corrections, amendments, or additions shall be accompanied by prima facie evidence which supports the requested change.

Section 437. KRS 213.078 is amended to read as follows:

(1) Any certificate of death form developed or distributed by the Cabinet for Health and Family Services shall contain the following questions:

(a) "Did the deceased have diabetes?"; and

(b) "Was diabetes an immediate, underlying, or contributing cause of or condition leading to death?".

(2) If the person completing the certificate of death fails to answer the questions identified in subsection (1) of this section, the state registrar shall call attention to the defects in the certificate and require the person responsible for the entry to complete or correct it.

Section 438. KRS 213.101 is amended to read as follows:

Each induced termination of pregnancy which occurs in the Commonwealth, regardless of

1 the length of gestation, shall be reported to the ~~Office of~~ Vital Statistics **Branch** by the  
 2 person in charge of the institution within fifteen (15) days after the end of the month in  
 3 which the termination occurred. If the induced termination of pregnancy was performed  
 4 outside an institution, the attending physician shall prepare and file the report within  
 5 fifteen (15) days after the end of the month in which the termination occurred. The report  
 6 shall collect no information which will identify the physician, woman, or man involved.  
 7 The name of the person completing the report and the reporting institution shall not be  
 8 subject to disclosure under KRS 61.870 to 61.884.

9 Section 439. KRS 213.111 is amended to read as follows:

10 (1) Notwithstanding the provisions of KRS 311.300 to 311.350, any hospital or  
 11 institution of higher learning may make application to any medical school  
 12 incorporated within the Commonwealth for the loan of unclaimed whole dead  
 13 bodies or parts thereof for educational or scientific purposes if the approval of the  
 14 Cabinet for Health **and Family** Services has first been obtained. Approval shall be  
 15 granted or denied by the Cabinet for Health **and Family** Services on the basis of  
 16 proposed use, need, qualification of personnel, and adequacy of equipment and  
 17 facilities.

18 (2) A special transit permit shall be obtained for the transportation of the dead bodies or  
 19 parts thereof from the state registrar. Transportation and the ultimate burial of all  
 20 the bodies or parts thereof shall be in accordance with the provisions of this chapter  
 21 and KRS 311.340.

22 (3) All approved recipients shall keep a record of all bodies received by them and  
 23 comply with all other regulations of the Cabinet for Health **and Family** Services.

24 Section 440. KRS 213.116 is amended to read as follows:

25 (1) The cabinet shall perform the collection, indexing, tabulation, and registration of  
 26 data relating to marriages, divorces, and annulments. The secretary shall adopt  
 27 administrative regulations to carry out the provisions of this section.

- 1 (2) Each county clerk shall on or before the tenth day of each month furnish to the state  
2 registrar, from the marriage licenses issued and the marriage certificates returned to  
3 the clerk during the previous month, the information required by the Cabinet for  
4 Health and Family Services upon forms prescribed and furnished by the cabinet.  
5 The county clerk shall collect from the applicants for a marriage license at the time  
6 the license is issued one dollar (\$1), which shall constitute the clerk's fee for  
7 forwarding the required information to the state registrar.
- 8 (3) A marriage record not filed within the time prescribed by this section may be  
9 registered in accordance with administrative regulations adopted by the cabinet.
- 10 (4) In all actions for dissolution of marriage, the petitioner, or the petitioner's attorney  
11 or legal representative, shall file, concurrently with the petition, the information  
12 requested on forms prescribed and furnished by the Cabinet for Health and Family  
13 Services. The provisions of the information shall be prerequisite to the issuance of a  
14 final decree in the matter by the court.
- 15 (5) Each Circuit Court clerk shall, within forty-five (45) days after entry of a final  
16 judgment of divorce, absolute or limited, or annulment of marriage, complete the  
17 form prescribed and furnished by the Cabinet for Health and Family Services and  
18 forward it to the state registrar.
- 19 Section 441. KRS 213.131 is amended to read as follows:
- 20 (1) To protect the integrity of vital records, to insure their proper use, and to insure the  
21 efficient and proper administration of the system of vital statistics, it shall be  
22 unlawful for any person to permit inspection of, or to disclose information  
23 contained in vital records or to copy or issue a copy of all or part of any record  
24 except as authorized by this chapter, by regulation, or by order of a court of  
25 competent jurisdiction. Administrative regulations adopted by the cabinet shall  
26 provide for adequate standards of security and confidentiality of vital records and  
27 shall conform to subsection (4) of this section.



1 (2) The state registrar shall prepare annually an alphabetical list of all persons  
2 registered as born in the preceding year. The list shall show the person's name, the  
3 mother's maiden name, and the date and county of birth. This list shall be an open  
4 record subject to inspection by the public upon request.

5 (3) The state registrar shall prepare annually an alphabetical list of all persons  
6 registered who die in the Commonwealth. This list shall show the name of the  
7 deceased and the date and county of death and shall be an open record subject to  
8 inspection by the public upon request.

9 (4) The Cabinet for Health and Family Services may authorize by regulation the  
10 disclosure of information contained in vital records for research and official  
11 administrative purposes, if:

12 (a) All information identifying persons named on the certificate is withheld or  
13 removed;

14 (b) The information is requested by a federal, state, county, or municipal agency  
15 of government which needs the data or information in the conduct of official  
16 duties; or

17 (c) The cabinet has prepared, in writing, a statement of the conditions under  
18 which the data or records will be used and received an agreement signed by a  
19 responsible agent of the research organization agreeing to meet with and  
20 conform to the conditions.

21 (5) If one hundred (100) years have elapsed after the date of birth, or fifty (50) years  
22 have elapsed after the date of death, the records of these events in the custody of the  
23 state registrar shall become public records and information shall be made available  
24 in accordance with regulations which shall provide for continued safekeeping of the  
25 records.

26 Section 442. KRS 213.136 is amended to read as follows:

27 (1) The state registrar shall upon receipt of an application issue a certified copy of a

1 vital record in the registrar's custody or a part thereof to any applicant. Each copy  
2 issued shall show the date of registration and copies issued from records marked  
3 "delayed" or "amended" shall be similarly marked and show the effective date. The  
4 documentary evidence used to establish a delayed certificate shall be shown on all  
5 copies issued. All forms and procedures used in the issuance of certified copies of  
6 vital records in the Commonwealth shall be provided or approved by the state  
7 registrar.

8 (2) A certified copy of a vital record or any part thereof, issued in accordance with  
9 subsection (1) of this section, shall be considered for all purposes the same as the  
10 original and shall be prima facie evidence of the facts stated therein. The evidentiary  
11 value of a certificate or record which has been amended shall be determined by the  
12 judicial or administrative body, or official before which the certificate is offered as  
13 evidence.

14 (3) The federal agency responsible for national vital statistics may be furnished copies  
15 or data from the system of vital statistics for national statistics, if the federal agency  
16 shares in the cost of collecting, processing, and transmitting the data, and if the data  
17 is not used for other than statistical purposes by the federal agency unless so  
18 authorized by the cabinet.

19 (4) Federal, state, local, and other public or private agencies may, upon request, be  
20 furnished copies or data from the system of vital statistics for statistical or  
21 administrative purposes upon terms or conditions as may be prescribed by  
22 regulation if the copies or data are not used for purposes other than those for which  
23 they were requested without prior permission of the cabinet. No information other  
24 than statistical data shall be provided for commercial purposes.

25 (5) The cabinet may, by agreement, transmit copies of records and other reports  
26 required by this chapter to offices of vital statistics outside the Commonwealth  
27 when the records or other reports relate to residents of those jurisdictions or persons

1 born in those jurisdictions. The agreement shall require that the copies be used for  
2 statistical and administrative purposes only and the agreement shall further provide  
3 for the retention and disposition of the copies. Copies received by the ~~Office of~~  
4 Vital Statistics **Branch** from offices of vital statistics in other states shall be  
5 handled in the same manner as prescribed in this section.

- 6 (6) No person shall prepare or issue any certificate which purports to be an original,  
7 certified copy, or copy of a vital record except as authorized in this section or  
8 regulation adopted hereunder.

9 Section 443. KRS 213.156 is amended to read as follows:

10 The provisions of this chapter shall apply to all certificates of birth, death, marriage,  
11 divorce, fetal death and induced termination of pregnancy previously received by the  
12 ~~Office of~~ Vital Statistics **Branch** and in the custody of the state registrar or any local  
13 registrar.

14 Section 444. KRS 213.161 is amended to read as follows:

- 15 (1) In order to obtain information which may be useful to research organizations  
16 studying the causes and incidence of the sudden infant death syndrome, a program  
17 is hereby established in the Cabinet for Health **and Family** Services. The purpose of  
18 this program shall be to obtain factual information concerning the characteristics,  
19 incidence, and distribution of the sudden infant death syndrome throughout the  
20 Commonwealth and to provide a means of public education concerning any  
21 research findings which may lead to the possible means of prevention, early  
22 identification, and treatment of children susceptible to the sudden infant death  
23 syndrome.

- 24 (2) In instances where an ostensibly healthy child dies suddenly and unexpectedly with  
25 no known or apparent cause as determined by a physician or a coroner, an autopsy  
26 with the written approval of the parents or legal guardian of the child shall be  
27 performed within forty-eight (48) hours and the results reported to the cabinet and

1 to the parents or legal guardian of the child.

2 (3) In order to implement the provisions of this section, the secretary of the Cabinet for  
3 Health **and Family** Services shall:

4 (a) Promulgate administrative regulations as may be necessary in order to obtain  
5 in proper form all information relating to the occurrence of sudden infant  
6 deaths which is relevant and appropriate for the establishment of a reliable  
7 statistical index of the incidence, distribution, and characteristics of cases of  
8 the sudden infant death syndrome;

9 (b) Collect such factual information from physicians, coroners, medical  
10 examiners, hospitals, and public health officials who have examined any child  
11 known or believed to have the sudden infant death syndrome;

12 (c) Make such factual information available to physicians, coroners, medical  
13 examiners, hospitals, public health officials, and educational and institutional  
14 organizations conducting research as to the causes and incidence of the sudden  
15 infant death syndrome;

16 (d) Cause appropriate counseling services to be established and maintained for  
17 families affected by the occurrence of the sudden infant death syndrome; and

18 (e) Conduct educational programs to inform the general public of any research  
19 findings of educational and institutional organizations which may lead to the  
20 possible means of prevention, early identification, and treatment of the sudden  
21 infant death syndrome.

22 Section 445. KRS 213.991 is amended to read as follows:

23 (1) Any person who shall cremate or cause to be cremated or transport or cause to be  
24 transported for the purpose of cremation, the body of any person whose death  
25 occurs in the Commonwealth, without first obtaining from the coroner of the county  
26 in which death occurred, authorization for the transportation and cremation shall be  
27 guilty of a Class D felony.

- 1 (2) Any person shall be guilty of a Class A misdemeanor who:
- 2 (a) Willfully and knowingly makes any false statement in a certificate, record, or
- 3 report required by this chapter or in an application for an amendment thereof
- 4 or in an application for a certified copy of a vital record or who willfully and
- 5 knowingly supplies false information intending that such information be used :  
:
- 6 in the preparation of any report, record or certificate or amendment thereof;
- 7 (b) Without lawful authority and with the intent to deceive, makes counterfeits, :  
:
- 8 alters, amends or mutilates any certificate, record or report required by this
- 9 chapter or a certified copy of such certificate, record or report;
- 10 (c) Willfully and knowingly obtains, possesses, uses, sells, furnishes or attempts
- 11 to obtain, possess, use, sell or furnish to another, for any purpose of deception,
- 12 any certificate, record or report required by this chapter or certified copy
- 13 thereof so made, counterfeited, altered, amended, mutilated or which is false
- 14 in whole or in part or which relates to the birth of another person whether
- 15 living or deceased;
- 16 (d) As an employee of the ~~Office of~~ Vital Statistics **Branch** or any office
- 17 designated under KRS 213.036, willfully and knowingly furnishes or
- 18 processes a certificate of birth or certified copy of a certificate of birth with
- 19 the knowledge or intention that it may be used for the purpose of deception; or
- 20 (e) Without lawful authority possesses any certificate, record, or report required :  
:
- 21 by this chapter or a copy or certified copy of such certificate, record, or report
- 22 knowing same to have been stolen or otherwise unlawfully obtained. :
- 23 (3) Any person shall be guilty of a Class B misdemeanor who:
- 24 (a) Willfully and knowingly refuses to provide information required by this
- 25 chapter or administrative regulations adopted hereunder;
- 26 (b) Willfully and knowingly transports or accepts for transportation, interment, or
- 27 other disposition a dead body without an accompanying permit as provided in

1 this chapter;

2 (c) Willfully and knowingly neglects or violates any of the provisions of this  
3 chapter or refuses to perform any of the duties imposed upon him or her by  
4 this chapter; or

5 (d) As an employee of the ~~Office of~~ Vital Statistics **Branch** or any office  
6 designated under KRS 213.036, willfully and knowingly violates the  
7 confidentiality provisions of KRS 213.131.

8 (4) Repeated failure to comply with the requirements of this chapter shall be sufficient  
9 cause for the cabinet to file a report with the applicable medical, dental,  
10 chiropractic, or funeral director licensure board citing the omissions of lawful duty  
11 and requesting that appropriate disciplinary action be taken.

12 Section 446. KRS 214.010 is amended to read as follows:

13 Every physician shall report all diseases designated by regulation of the Cabinet for  
14 Health **and Family** Services as reportable which are under his special treatment to the  
15 local board of health of his county, and every head of a family shall report any of said  
16 diseases, when known by him to exist in his family, to the local board or to some member  
17 thereof in accordance with the regulations of the Cabinet for Health **and Family** Services.

18 Section 447. KRS 214.020 is amended to read as follows:

19 When the Cabinet for Health **and Family** Services believes that there is a probability that  
20 any infectious or contagious disease will invade this state, it shall take such action and  
21 adopt and enforce such rules and regulations as it deems efficient in preventing the  
22 introduction or spread of such infectious or contagious disease or diseases within this  
23 state, and to accomplish these objects shall establish and strictly maintain quarantine and  
24 isolation at such places as it deems proper.

25 Section 448. KRS 214.034 is amended to read as follows:

26 Except as otherwise provided in KRS 214.036:

27 (1) All parents, guardians, and other persons having care, custody, or control of any

1 child shall have the child immunized against diphtheria, tetanus, poliomyelitis,  
2 pertussis, measles, rubella, mumps, hepatitis B, and haemophilis influenzae disease  
3 in accordance with testing and immunization schedules established by regulations  
4 of the Cabinet for Health and Family Services. Additional immunizations may be  
5 required by the Cabinet for Health and Family Services through the promulgation  
6 of an administrative regulation pursuant to KRS Chapter 13A if recommended by  
7 the United States Public Health Service or the American Academy of Pediatrics. All  
8 parents, guardians, and other persons having care, custody, or control of any child  
9 shall also have any child found to be infected with tuberculosis examined and  
10 treated according to administrative regulations of the Cabinet for Health and  
11 Family Services promulgated under KRS Chapter 13A. The persons shall also have  
12 booster immunizations administered to the child in accordance with the regulations  
13 of the Cabinet for Health and Family Services.

- 14 (2) A local health department may, with the approval of the Department of Public  
15 Health, require all first-time enrollees in a public or private school within the health  
16 department's jurisdiction to be tested for tuberculosis prior to entering school.  
17 Following the first year of school, upon an epidemiological determination made by  
18 the state or local health officer in accordance with administrative regulations  
19 promulgated by the Cabinet for Health and Family Services, all parents, guardians,  
20 and other persons having care, custody, or control of any child shall have the child  
21 tested for tuberculosis, and shall have any child found to be infected with  
22 tuberculosis examined and treated according to administrative regulations of the  
23 Cabinet for Health and Family Services. Nothing in this section shall be construed  
24 to require the testing for tuberculosis of any child whose parent or guardian is  
25 opposed to such testing, and who objects by a written sworn statement to the testing  
26 for tuberculosis of the child on religious grounds. However, in a suspected case of  
27 tuberculosis, a local health department may require testing of this child.

- 1 (3) All public or private primary or secondary schools, and preschool programs shall  
2 require a current immunization certificate for any child enrolled as a regular  
3 attendee, as provided by administrative regulation of the Cabinet for Health and  
4 Family Services, promulgated under KRS Chapter 13A, to be on file within two (2)  
5 weeks of the child's attendance.
- 6 (4) All public or private primary schools shall require a current immunization  
7 certificate for hepatitis B for any child enrolled as a regular attendee in the sixth  
8 grade, as provided by administrative regulation of the Cabinet for Health and  
9 Family Services, promulgated under KRS Chapter 13A, to be on file within two (2)  
10 weeks of the child's attendance. This provision shall sunset following the 2008-  
11 2009 school year unless otherwise authorized by the General Assembly.
- 12 (5) For each child cared for in a day-care center, certified family child-care home, or  
13 any other licensed facility which cares for children, a current immunization  
14 certificate, as provided by administrative regulation of the Cabinet for Health and  
15 Family Services, promulgated under KRS Chapter 13A, shall be on file in the  
16 center, home, or facility within thirty (30) days of entrance into the program or  
17 admission to the facility.
- 18 (6) Any forms relating to exemption from immunization requirements shall be available  
19 at public or private primary or secondary schools, preschool programs, day-care  
20 centers, certified family child-care homes, or other licensed facilities which care for  
21 children.

22 Section 449. KRS 214.036 is amended to read as follows:

23 Nothing contained in KRS 158.035, 214.010, 214.020, 214.032 to 214.036, and 214.990  
24 shall be construed to require the testing for tuberculosis or the immunization of any child  
25 at a time when, in the written opinion of his attending physician, such testing or  
26 immunization would be injurious to the child's health. Nor shall KRS 158.035, 214.010,  
27 214.020, 214.032 to 214.036, and 214.990 be construed to require the immunization of



1 any child whose parents are opposed to medical immunization against disease, and who  
2 object by a written sworn statement to the immunization of such child on religious  
3 grounds. Provided, however, that in the event of an epidemic in a given area, the Cabinet  
4 for Health and Family Services may, by emergency regulation, require the immunization  
5 of all persons within the area of epidemic, against the disease responsible for such  
6 epidemic.

7 Section 450. KRS 214.155 is amended to read as follows:

- 8 (1) The administrative officer or other person in charge of each institution caring for  
9 infants twenty-eight (28) days or less of age and the person required in pursuance of  
10 the provisions of KRS 213.046 shall register the birth of a child and cause to have  
11 administered to every such infant or child in its or his care tests for heritable  
12 disorders including, but not limited to, phenylketonuria (PKU), sickle cell disease,  
13 congenital hypothyroidism, and galactosemia in accordance with rules or  
14 regulations prescribed by the secretary of the Cabinet for Health and Family  
15 Services. Testing, recording, and reporting of the results of newborn screening tests  
16 shall be performed at the times and in the manner as may be prescribed by the  
17 secretary of the Cabinet for Health and Family Services or the secretary's designee.  
18 The secretary of the Cabinet for Health and Family Services shall by regulation  
19 establish and collect fees to cover the cost of analyzing the testing samples for  
20 newborn screening tests.
- 21 (2) Nothing in this section shall be construed to require the testing of any child whose  
22 parents are members of a nationally recognized and established church or religious  
23 denomination, the teachings of which are opposed to medical tests, and who object  
24 in writing to the testing of his or her child on that ground.
- 25 (3) The cabinet shall make available the names and addresses of health care providers  
26 including, but not limited to, physicians, nurses, and nutritionists, who may provide  
27 postpartum home visits to any family whose infant or child has tested positive for a

1 newborn screening test.

2 (4) Contingent upon the receipt of federal grants or appropriations by the General  
3 Assembly of the Commonwealth of Kentucky, the tests for heritable disorders for  
4 newborns listed in subsection (1) of this section shall be expanded to include, but  
5 not be limited to, medium-chain acyl-CoA dehydrogenase deficiency (MCAD), very  
6 long-chain acyl-CoA deficiency (VLCAD), short-chain acyl-CoA dehydrogenase  
7 deficiency (SCAD), maple syrup urine disease, congenital adrenal hyperplasia,  
8 biotinidase disorder, and cystic fibrosis.

9 (5) The secretary for health and family services or his or her designee shall apply for  
10 any federal grants available through the Public Health Service Act to expand or  
11 improve programs to provide screening, counseling, testing, or specialty services for  
12 newborns or children at risk for heritable disorders.

13 (6) The secretary for health and family services or his or her designee shall apply for  
14 any federal grants available through the Public Health Service Act to evaluate the  
15 effectiveness of newborn screening, counseling, or health care services in reducing  
16 the morbidity and mortality caused by heritable disorders in newborns and children.

17 Section 451. KRS 214.160 is amended to read as follows:

18 (1) Every physician and every other person legally permitted to engage in attendance  
19 upon a pregnant woman in this state shall take or cause to be taken from the woman  
20 a specimen of blood for serological test for syphilis as soon as he is engaged to  
21 attend the woman and has reasonable grounds for suspecting that pregnancy exists.  
22 If the woman is in labor at the time the diagnosis of pregnancy is made, which may  
23 make it inadvisable to obtain a blood specimen at that time, the specimen shall be  
24 obtained within ten (10) days after delivery. The specimen of blood shall be  
25 submitted to the laboratory of the Cabinet for Health and Family Services or a  
26 laboratory approved by the cabinet for the purpose of having made a serological test  
27 for syphilis. The test shall be of a type approved by the Cabinet for Health and

1        **Family** Services.

- 2        (2) The Cabinet for Health **and Family** Services shall, as often as necessary, publish a  
3        list of the five (5) most frequently abused substances, including alcohol, by pregnant  
4        women in the Commonwealth. Any physician and any other person legally  
5        permitted to engage in attendance upon a pregnant woman in this state may perform  
6        a screening for alcohol or substance dependency or abuse, including a  
7        comprehensive history of such behavior. Any physician may administer a  
8        toxicology test to a pregnant woman under the physician's care within eight (8)  
9        hours after delivery to determine whether there is evidence that she has ingested  
10       alcohol, a controlled substance, or a substance identified on the list provided by the  
11       cabinet, or if the woman has obstetrical complications that are a medical indication  
12       of possible use of any such substance for a nonmedical purpose.
- 13       (3) Any physician or person legally permitted to engage in attendance upon a pregnant  
14       woman may administer to each newborn infant born under that person's care a  
15       toxicology test to determine whether there is evidence of prenatal exposure to  
16       alcohol, a controlled substance, or a substance identified on the list provided by the  
17       Cabinet for Health **and Family** Services, if the attending person has reason to  
18       believe, based on a medical assessment of the mother or the infant, that the mother  
19       used any such substance for a nonmedical purpose during the pregnancy.
- 20       (4) The circumstances surrounding any positive toxicology finding shall be evaluated  
21       by the attending person to determine if abuse or neglect of the infant, as defined  
22       under KRS 600.020(1), has occurred and whether investigation by the Cabinet for  
23       Health **and Family** Services is necessary.
- 24       (5) No prenatal screening for alcohol or other substance abuse or positive toxicology  
25       finding shall be used as prosecutorial evidence.
- 26       (6) No person shall conduct or cause to be conducted any toxicological test pursuant to  
27       this section on any pregnant woman without first informing the pregnant woman of

1 the purpose of the test.

2 (7) Every physician or other person legally permitted to engage in attendance upon a  
 3 pregnant woman in the Commonwealth shall take or cause to be taken from the  
 4 woman a specimen of blood which shall be submitted for the purpose of serologic  
 5 testing for the presence of hepatitis B surface antigen to a laboratory certified by the  
 6 United States Department for Health and Human Services pursuant to Section 333  
 7 of the Public Health Service Act (42 U.S.C. sec. 263a), as revised by the Clinical  
 8 Laboratory Improvement Amendments (CLIA), Pub.L. 100-578.

9 Section 452. KRS 214.170 is amended to read as follows:

10 Every physician or other person who takes or causes to be taken from a woman in  
 11 pregnancy, or suspected pregnancy, a blood specimen for serological tests for syphilis,  
 12 shall identify the specimen as being from a pregnant woman submitting it for tests. The  
 13 laboratory shall report the result of the test if reactive on forms prepared and furnished by  
 14 the Cabinet for Health and Family Services to the Cabinet for Health and Family  
 15 Services not later than one (1) week after the examination is made.

16 Section 453. KRS 214.175 is amended to read as follows:

17 (1) The Cabinet for Health and Family Services may conduct periodic anonymous  
 18 surveys to determine the prevalence within the Commonwealth of drug and alcohol  
 19 use during pregnancy. These periodic surveys may include, but are not limited to,  
 20 toxicology tests to determine the presence of alcohol, controlled substances, or other  
 21 drugs which have not been prescribed due to medical necessity.

22 (2) All hospitals and any other health facilities licensed pursuant to KRS Chapter 216B  
 23 which provide for obstetrical services, including delivery of newborn infants, shall,  
 24 as a condition of licensure, participate in any periodic surveys conducted by the  
 25 Cabinet for Health and Family Services for the purposes of determining the  
 26 prevalence of alcohol or other substance abuse among pregnant women and  
 27 newborn infants.

- 1 (3) Any surveys conducted pursuant to this section shall be conducted according to  
2 guidelines established by the Cabinet for Health and Family Services. The  
3 toxicology test may be performed without a physician's order and without patient or  
4 parental consent. For the purpose of this section any toxicology test performed shall  
5 be considered medically necessary.
- 6 (4) The results of any individual toxicology tests performed pursuant to this section  
7 shall remain confidential and shall only be released to the Cabinet for Health and  
8 Family Services. Any results shall be collected and compiled in aggregate form  
9 without the name of the hospital, patient, or other means of identifying the  
10 individual subject of the test.
- 11 (5) No test result obtained pursuant to this section shall be admissible in any court or  
12 other hearing as evidence in any proceeding, criminal or civil, against the individual  
13 subject of the test.
- 14 (6) No hospital shall incur any liability, except for negligence, for performing any test  
15 required or authorized under KRS 214.160 and 214.175 or for reporting the result of  
16 the test pursuant to any administrative regulation promulgated by the Cabinet for  
17 Health and Family Services under KRS Chapter 13A in accordance with this  
18 section.
- 19 (7) The cabinet may use any state appropriation and any gifts, grants, or federal funds  
20 that become available for the purposes of implementing the provisions of this  
21 section.
- 22 Section 454. KRS 214.181 is amended to read as follows:
- 23 (1) The General Assembly finds that the use of tests designed to reveal a condition  
24 indicative of human immunodeficiency virus (HIV) infection can be a valuable tool  
25 in protecting the public health. The General Assembly finds that despite current  
26 scientific knowledge that zidovudine (AZT) prolongs the lives of acquired  
27 immunodeficiency syndrome victims, and may also be effective when introduced in

1 the early stages of human immunodeficiency virus infection, many members of the  
2 public are deterred from seeking testing because they misunderstand the nature of  
3 the test or fear that test results will be disclosed without their consent. The General  
4 Assembly finds that the public health will be served by facilitating informed,  
5 voluntary, and confidential use of tests designed to detect human immunodeficiency  
6 virus infection.

7 (2) A person who has signed a general consent form for the performance of medical  
8 procedures and tests is not required to also sign or be presented with a specific  
9 consent form relating to medical procedures or tests to determine human  
10 immunodeficiency virus infection, antibodies to human immunodeficiency virus, or  
11 infection with any other causative agent of acquired immunodeficiency syndrome  
12 that will be performed on the person during the time in which the general consent  
13 form is in effect. However, a general consent form shall instruct the patient that, as  
14 part of the medical procedures or tests, the patient may be tested for human  
15 immunodeficiency virus infection, hepatitis, or any other blood-borne infectious  
16 disease if a doctor orders the test for diagnostic purposes. Except as otherwise  
17 provided in subsection (5)(c) of this section, the results of a test or procedure to  
18 determine human immunodeficiency virus infection, antibodies to human  
19 immunodeficiency virus, or infection with any probable causative agent of acquired  
20 immunodeficiency syndrome performed under the authorization of a general  
21 consent form shall be used only for diagnostic or other purposes directly related to  
22 medical treatment.

23 (3) In any emergency situation where informed consent of the patient cannot reasonably  
24 be obtained before providing health-care services, there is no requirement that a  
25 health-care provider obtain a previous informed consent.

26 (4) The physician who orders the test pursuant to subsections (1) and (2) of this section,  
27 or the attending physician, shall be responsible for informing the patient of the

1 results of the test if the test results are positive for human immunodeficiency virus  
 2 infection. If the tests are positive, the physician shall also be responsible for either:

3 (a) Providing information and counseling to the patient concerning his infection  
 4 or diagnosis and the known medical implications of such status or condition;  
 5 or

6 (b) Referring the patient to another appropriate professional or health-care facility  
 7 for the information and counseling.

8 (5) (a) No person in this state shall perform a test designed to identify the human  
 9 immunodeficiency virus, or its antigen or antibody, without first obtaining the  
 10 informed consent of the person upon whom the test is being performed, except  
 11 as specified in subsections (2) and (3) of this section.

12 (b) No test result shall be determined as positive, and no positive test result shall  
 13 be revealed to any person, without corroborating or confirmatory tests being  
 14 conducted.

15 (c) No person who has obtained or has knowledge of a test result pursuant to this  
 16 section shall disclose or be compelled to disclose the identity of any person  
 17 upon whom a test is performed, or the results of the test in a manner which  
 18 permits identification of the subject of the test, except to the following  
 19 persons:

- 20 1. The subject of the test or the subject's legally authorized representative;
- 21 2. Any person designated in a legally effective release of the test results  
 22 executed prior to or after the test by the subject of the test or the  
 23 subject's legally authorized representative;
- 24 3. A physician, nurse, or other health-care personnel who has a legitimate  
 25 need to know the test result in order to provide for his protection and to  
 26 provide for the patient's health and welfare;
- 27 4. Health-care providers consulting between themselves or with health-care

- 1 facilities to determine diagnosis and treatment;
- 2 5. The cabinet, in accordance with rules for reporting and controlling the
- 3 spread of disease, as otherwise provided by state law;
- 4 6. A health facility or health-care provider which procures, processes,
- 5 distributes, or uses:
- 6 a. A human body part from a deceased person, with respect to
- 7 medical information regarding that person; or
- 8 b. Semen provided prior to the effective date of this section for the
- 9 purpose of artificial insemination;
- 10 7. Health facility staff committees, for the purposes of conducting program
- 11 monitoring, program evaluation, or service reviews;
- 12 8. Authorized medical or epidemiological researchers who shall not further
- 13 disclose any identifying characteristics or information;
- 14 9. A person allowed access by a court order that is issued in compliance
- 15 with the following provisions:
- 16 a. No court of this state shall issue an order to permit access to a test
- 17 for human immunodeficiency virus performed in a medical or
- 18 public health setting to any person not authorized by this section or
- 19 by KRS 214.420. A court may order an individual to be tested for
- 20 human immunodeficiency virus only if the person seeking the test
- 21 results has demonstrated a compelling need for the test results
- 22 which cannot be accommodated by other means. In assessing
- 23 compelling need, the court shall weigh the need for testing and
- 24 disclosure against the privacy interest of the test subject and the
- 25 public interest which may be disserved by disclosure which deters
- 26 blood, organ, and semen donation and future human-
- 27 immunodeficiency-virus-related testing or which may lead to



1 discrimination. This paragraph shall not apply to blood bank donor  
2 records;

3 b. Pleadings pertaining to disclosure of test results shall substitute a  
4 pseudonym for the true name of the subject of the test. The  
5 disclosure to the parties of the subject's true name shall be  
6 communicated confidentially, in documents not filed with the  
7 court;

8 c. Before granting any order, the court shall provide the individual  
9 whose test result is in question with notice and a reasonable  
10 opportunity to participate in the proceedings if he or she is not  
11 already a party;

12 d. Court proceedings as to disclosure of test results shall be  
13 conducted in camera, unless the subject of the test agrees to a  
14 hearing in open court or unless the court determines that a public  
15 hearing is necessary to the public interest and the proper  
16 administration of justice;

17 e. Upon the issuance of an order to disclose test results, the court  
18 shall impose appropriate safeguards against unauthorized  
19 disclosure, which shall specify the persons who may have access to  
20 the information, the purposes for which the information shall be  
21 used, and appropriate prohibitions on future disclosure.

22 No person to whom the results of a test have been disclosed shall disclose the  
23 test results to another person except as authorized by this subsection. When  
24 disclosure is made pursuant to this subsection, it shall be accompanied by a  
25 statement in writing that includes the following or substantially similar  
26 language: "This information has been disclosed to you from records whose  
27 confidentiality is protected by state law. State law prohibits you from making

1 any further disclosure of such information without the specific written consent  
2 of the person to whom such information pertains, or as otherwise permitted by  
3 state law. A general authorization for the release of medical or other  
4 information is NOT sufficient for this purpose." An oral disclosure shall be  
5 accompanied by oral notice and followed by a written notice within ten (10)  
6 days.

7 (6) (a) The Cabinet for Health and Family Services shall establish a network of  
8 voluntary human immunodeficiency virus testing programs in every county in  
9 the state. These programs shall be conducted in each public health department  
10 established under the provisions of KRS Chapter 212. Additional programs  
11 may be contracted to other private providers to the extent that finances permit  
12 and local circumstances dictate.

13 (b) Each public health department shall have the ability to provide counseling and  
14 testing for the human immunodeficiency virus to each patient who receives  
15 services and shall offer the testing on a voluntary basis to each patient who  
16 requests the test.

17 (c) Each public health department shall provide a program of counseling and  
18 testing for human immunodeficiency virus infection, on an anonymous or  
19 confidential basis, dependent on the patient's desire. If the testing is performed  
20 on an anonymous basis, only the statistical information relating to a positive  
21 test for human immunodeficiency virus infection shall be reported to the  
22 cabinet. If the testing is performed on a confidential basis, the name and other  
23 information specified under KRS 214.645 shall be reported to the cabinet. The  
24 cabinet shall continue to provide for anonymous testing and counseling.

25 (d) The result of a serologic test conducted under the auspices of the cabinet shall  
26 not be used to determine if a person may be insured for disability, health, or  
27 life insurance or to screen or determine suitability for, or to discharge a person

1 from, employment. Any person who violates the provisions of this subsection  
2 shall be guilty of a Class A misdemeanor.

3 (7) No public health department and no other private or public facility shall be  
4 established for the primary purpose of conducting a testing program for acquired  
5 immunodeficiency syndrome, acquired immunodeficiency syndrome related  
6 complex, or human immunodeficiency virus status without first registering with the  
7 cabinet, complying with all other applicable provisions of state law, and meeting the  
8 following requirements:

9 (a) The program shall be directed by a person who has completed an educational  
10 course approved by the cabinet in the counseling of persons with acquired  
11 immunodeficiency syndrome, acquired immunodeficiency syndrome related  
12 complex, or human immunodeficiency virus infection;

13 (b) The program shall have all medical care supervised by a physician licensed  
14 under the provisions of KRS Chapter 311;

15 (c) The program shall have all laboratory procedures performed in a laboratory  
16 licensed under the provisions of KRS Chapter 333;

17 (d) Informed consent shall be required prior to testing. Informed consent shall be  
18 preceded by an explanation of the test, including its purpose, potential uses,  
19 and limitations and the meaning of its results;

20 (e) The program, unless it is a blood donor center, shall provide pretest  
21 counseling on the meaning of a test for human immunodeficiency virus,  
22 including medical indications for the test; the possibility of false positive or  
23 false negative results; the potential need for confirmatory testing; the potential  
24 social, medical, and economic consequences of a positive test result; and the  
25 need to eliminate high-risk behavior;

26 (f) The program shall provide supplemental corroborative testing on all positive  
27 test results before the results of any positive test is provided to the patient;

- 1 (g) The program shall provide post-test counseling, in person, on the meaning of
- 2 the test results; the possible need for additional testing; the social, medical,
- 3 and economic consequences of a positive test result; and the need to eliminate
- 4 behavior which might spread the disease to others;
- 5 (h) Each person providing post-test counseling to a patient with a positive test
- 6 result shall receive specialized training, to be specified by regulation of the
- 7 cabinet, about the special needs of persons with positive results, including
- 8 recognition of possible suicidal behavior, and shall refer the patient for further
- 9 health and social services as appropriate;
- 10 (i) When services are provided for a charge during pretest counseling, testing,
- 11 supplemental testing, and post-test counseling, the program shall provide a
- 12 complete list of all charges to the patient and the cabinet; and
- 13 (j) Nothing in this subsection shall be construed to require a facility licensed
- 14 under KRS Chapter 333 or a person licensed under the provisions of KRS
- 15 Chapters 311, 312, or 313 to register with the cabinet if he or she does not
- 16 advertise or hold himself out to the public as conducting testing programs for
- 17 human immunodeficiency virus infection or specializing in such testing.
- 18 (8) Any violation of this section by a licensed health-care provider shall be a ground for
- 19 disciplinary action contained in the professional's respective licensing chapter.
- 20 (9) Except as provided in subsection (6)(d) of this section, insurers and others
- 21 participating in activities related to the insurance application and underwriting
- 22 process shall be exempt from this section.
- 23 (10) The cabinet shall develop program standards consistent with the provisions of this
- 24 section for counseling and testing persons for the human immunodeficiency virus.
- 25 Section 455. KRS 214.185 is amended to read as follows:
- 26 (1) Any physician, upon consultation by a minor as a patient, with the consent of such
- 27 minor may make a diagnostic examination for venereal disease, pregnancy, alcohol

1 or other drug abuse or addiction and may advise, prescribe for, and treat such minor  
2 regarding venereal disease, alcohol and other drug abuse or addiction,  
3 contraception, pregnancy, or childbirth, all without the consent of or notification to  
4 the parent, parents, or guardian of such minor patient, or to any other person having  
5 custody of such minor patient. Treatment under this section does not include  
6 inducing of an abortion or performance of a sterilization operation. In any such  
7 case, the physician shall incur no civil or criminal liability by reason of having made  
8 such diagnostic examination or rendered such treatment, but such immunity shall  
9 not apply to any negligent acts or omissions.

10 (2) Any physician may provide outpatient mental health counseling to any child age  
11 sixteen (16) or older upon request of such child without the consent of a parent,  
12 parents, or guardian of such child.

13 (3) Notwithstanding any other provision of the law, and without limiting cases in which  
14 consent may be otherwise obtained or is not required, any emancipated minor or any  
15 minor who has contracted a lawful marriage or borne a child may give consent to  
16 the furnishing of hospital, medical, dental, or surgical care to his or her child or  
17 himself or herself and such consent shall not be subject to disaffirmance because of  
18 minority. The consent of the parent or parents of such married or emancipated  
19 minor shall not be necessary in order to authorize such care. For the purpose of this  
20 section only, a subsequent judgment of annulment of marriage or judgment of  
21 divorce shall not deprive the minor of his adult status once obtained. The provider  
22 of care may look only to the minor or spouse for payment for services under this  
23 section unless other persons specifically agree to assume the cost.

24 (4) Medical, dental, and other health services may be rendered to minors of any age  
25 without the consent of a parent or legal guardian when, in the professional's  
26 judgment, the risk to the minor's life or health is of such a nature that treatment  
27 should be given without delay and the requirement of consent would result in delay

1 or denial of treatment.

2 (5) The consent of a minor who represents that he may give effective consent for the  
3 purpose of receiving medical, dental, or other health services but who may not in  
4 fact do so, shall be deemed effective without the consent of the minor's parent or  
5 legal guardian, if the person rendering the service relied in good faith upon the  
6 representations of the minor.

7 (6) The professional may inform the parent or legal guardian of the minor patient of any  
8 treatment given or needed where, in the judgment of the professional, informing the  
9 parent or guardian would benefit the health of the minor patient.

10 (7) Except as otherwise provided in this section, parents, the Cabinet for Health and  
11 Family Services, or any other custodian or guardian of a minor shall not be  
12 financially responsible for services rendered under this section unless they are  
13 essential for the preservation of the health of the minor.

14 Section 456. KRS 214.310 is amended to read as follows:

15 (1) Any police officer or member of any municipal board of health, or other city  
16 official, who has reason to believe that the provisions of KRS 214.280 to 214.300  
17 have been or are being violated, shall give notice to the Cabinet for Health and  
18 Family Services.

19 (2) Any individual who has reason to believe that the provisions of KRS 214.280 to  
20 214.300 have been or are being violated may present the relevant facts to the board  
21 of health or any of its deputies. It shall then be the duty of the board of health to  
22 make an investigation of the facts, and if the board is of the opinion that there is or  
23 has been a violation it shall prosecute the person guilty thereof.

24 (3) Any individual may institute proceedings to enforce KRS 214.280 to 214.300 and to  
25 punish violations of their provisions.

26 Section 457. KRS 214.410 is amended to read as follows:

27 (1) "Cabinet" means the Cabinet for Health and Family Services; and

1 (2) "Sexually transmitted disease" means syphilis, gonorrhea, chancroid, granuloma  
2 inguinale, genital herpes, nongonococcal urethritis, mucopurulent cervicitis,  
3 acquired immunodeficiency syndrome (AIDS), human immunodeficiency virus  
4 (HIV) infection, chlamydia trachomatis infections, and any other sexually  
5 transmitted disease designated by the cabinet under the provisions of KRS Chapter  
6 13A.

7 Section 458. KRS 214.420 is amended to read as follows:

8 (1) The General Assembly hereby declares that confidentiality is essential for the  
9 proper administration and operation of sexually transmitted disease control  
10 activities in this state and that the principle of confidentiality must remain inviolate.

11 (2) All information, records, and reports in the possession of local health departments  
12 or the Cabinet for Health and Family Services and which concern persons infected  
13 with or suspected of being infected with or tested for or identified in an  
14 epidemiologic investigation for sexually transmitted disease are hereby declared to  
15 be strictly confidential and only personnel of local health departments and the  
16 Cabinet for Health and Family Services who are assigned to sexually transmitted  
17 disease control activities shall have access to such information, records, and reports.

18 (3) Nothing in this section shall be construed as preventing:

19 (a) The release of medical information to the physician retained by the person  
20 infected with or suspected of being infected with a sexually transmitted  
21 disease;

22 (b) The release of medical or epidemiological data or information for statistical  
23 purposes in a manner so that no individual person can be identified;

24 (c) The release of medical information with the written consent of all persons  
25 identified in the information to be released;

26 (d) The release of medical or epidemiological information necessary to enforce  
27 the provision of the rules and regulations of the Cabinet for Health and

1           **Family** Services, issued pursuant to KRS Chapter 13A, relating to the control  
 2           and treatment of sexually transmitted disease; and

- 3           (e) The release of medical information made to medical personnel in a medical  
 4           emergency to the extent necessary to protect the health or life of the named  
 5           party.

6           Section 459. KRS 214.452 is amended to read as follows:

7           The following policies shall apply to blood establishments and to donors of blood:

- 8           (1) All blood establishments within the Commonwealth shall be licensed by the United  
 9           States Food and Drug Administration and remain in compliance with all applicable  
 10          federal regulations. The Cabinet for Health **and Family** Services shall, under  
 11          administrative regulations promulgated pursuant to KRS Chapter 13A, establish  
 12          fees necessary to cover the cost of and adhere to a schedule for regular inspection,  
 13          by the Office of the Inspector General of the Cabinet for Health **and Family**  
 14          Services, of all blood establishments within the Commonwealth to ascertain  
 15          whether each blood establishment is licensed and in compliance with KRS 214.450  
 16          to 214.464 and KRS 214.468. The Office of the Inspector General shall commence  
 17          its inspection program of blood establishments no later than September 1, 1994.  
 18          The Office of the Inspector General of the Cabinet for Health **and Family** Services  
 19          shall annually, by no later than September 1, submit a written report to the Interim  
 20          Joint Committee on Health and Welfare on the compliance of blood establishments  
 21          with KRS 214.450 to 214.464 and KRS 214.468.
- 22          (2) All blood establishments shall test blood for the human immunodeficiency virus  
 23          and for any known causative agent for any blood-borne communicable disease,  
 24          using tests approved and required, for purposes of blood donation, by the United  
 25          States Food and Drug Administration.
- 26          (3) It shall be the duty of the administrator of any blood establishment which collects  
 27          blood for the purpose of distributing to another health service, health facility, or



1 health-care provider the blood for transfusion to:

- 2 (a) Secure donor consent and a signed written risk factor history and donor  
3 consent form for each potential paid or volunteer donor for the purpose of  
4 determining if the potential donor is at high risk for infection with the human  
5 immunodeficiency virus, or has tested confirmatory positive for infection with  
6 the human immunodeficiency virus; or has acquired immune deficiency  
7 syndrome; or has tested confirmatory positive for infection with any causative  
8 agent for acquired immune deficiency syndrome recognized by the United  
9 States Centers for Disease Control; or has a blood-borne communicable  
10 disease;
- 11 (b) Provide a means for a potential donor to self-elect not to donate blood;
- 12 (c) Refuse donation or sale of blood by persons at high risk for infection with the  
13 human immunodeficiency virus, or who have been medically diagnosed as  
14 having acquired immune deficiency syndrome, or who have tested  
15 confirmatory positive for infection with the human immunodeficiency virus,  
16 or who have a blood-borne communicable disease;
- 17 (d) Post a sign in the blood establishment which is visible to all potential donors  
18 and which states: "Persons with acquired immune deficiency syndrome  
19 (AIDS), or who have tested confirmatory positive for infection with the  
20 human immunodeficiency virus (HIV), or who have a blood-borne  
21 communicable disease or who have one (1) or more risk factors for the human  
22 immunodeficiency virus as determined by the United States Centers for  
23 Disease Control, are prohibited by law from donating or selling blood.  
24 Persons violating the law are guilty of a Class D felony. ASK STAFF OF  
25 THIS BLOOD ESTABLISHMENT."
- 26 (4) The provisions of this section shall not be construed to impose requirements which  
27 are in conflict with donor eligibility requirements set out in United States Food and

1 Drug Administration or American Association of Blood Banks standards.

2 Section 460. KRS 214.464 is amended to read as follows:

- 3 (1) (a) Untested blood may be transfused only in an emergency situation in which the  
4 attending physician determines a patient is in imminent danger of death or  
5 serious physical injury and no tested and labeled blood as set forth under KRS  
6 214.458 is readily available to alleviate the emergency situation; provided,  
7 however, that the attending physician shall obtain specific prior consent for  
8 the transfusion from the patient in the emergency situation or if the patient's  
9 condition renders the patient incapable of giving consent, seek from the next  
10 of kin of the patient, if available, prior informed consent to transfuse any  
11 untested blood. For purposes of this section, the patient's "next of kin" means,  
12 in the following order;

- 13 1. The spouse of the patient;  
14 2. If there is none, then the mother or father of the patient;  
15 3. If there is none, then any adult son or daughter of the patient; or  
16 4. If there is none, then any brother or sister of the patient.

- 17 (b) Physical evidence of consent shall become a part of the patient's permanent  
18 medical record.

- 19 (2) Blood establishments may release untested blood, collected under standards set  
20 forth in KRS 214.452, at the request of a physician, or health facility, or health  
21 service in an emergency as provided under this section. If blood has not been tested,  
22 the test shall be performed as soon after the transfusion as possible. If the blood  
23 subsequently tests positive for any blood-borne communicable disease, the patient's  
24 attending physician shall be immediately notified. The attending physician shall, in  
25 turn, notify the patient of the test results. The patient or next of kin shall indicate  
26 notification of receipt of the test results and any offer of treatment or referral to  
27 another health-care provider on a form provided by the health facility or health

1 service and approved by the Cabinet for Health and Family Services.

2 Section 461. KRS 214.550 is amended to read as follows:

3 As used in KRS 214.552 to 214.556:

4 (1) "Department" means the Department for Public Health of the Cabinet for Health  
5 and Family Services.

6 (2) "Fund" means the breast cancer screening fund.

7 (3) "Screening" means the conduct of screening mammography for the purpose of  
8 ascertaining the existence of any physiological abnormality which might be  
9 indicative of the presence of disease.

10 Section 462. KRS 214.554 is amended to read as follows:

11 (1) There is established within the department a Breast Cancer Screening Program for  
12 the purposes of:

13 (a) Reducing morbidity and mortality from breast cancer in women through early  
14 detection and treatment; and

15 (b) Making breast cancer screening services of high quality and reasonable cost  
16 available to women of all income levels throughout the Commonwealth and to  
17 women whose economic circumstances or geographic location limits access to  
18 breast cancer screening facilities.

19 (2) Services provided under the Breast Cancer Screening Program may be undertaken  
20 by private contract for services or operated by the department and may include the  
21 purchase, maintenance, and staffing of a truck, a van, or any other vehicle suitably  
22 equipped to perform breast cancer screening. The program may also provide referral  
23 services for the benefit of women for whom further examination or treatment is  
24 indicated by the breast cancer screening.

25 (3) The department may adopt a schedule of income-based fees to be charged for the  
26 breast cancer screening. The schedule shall be determined to make screening  
27 available to the largest possible number of women throughout the Commonwealth.

The department shall, where practical, collect any available insurance proceeds or other reimbursement payable on behalf of any recipient of a breast cancer screening under KRS 214.552 to 214.556 and may adjust the schedule of fees to reflect insurance contributions. All fees collected shall be credited to the fund.

(4) The department may accept any grant or award of funds from the federal government or private sources for carrying out the provisions of KRS 214.552 to 214.556.

(5) For the purpose of developing and monitoring the implementation of guidelines for access to and the quality of the services of the Breast Cancer Screening Program, there is hereby created a Breast Cancer Advisory Committee to the commissioner of the Department for Public Health which shall include the directors of the James Graham Brown Cancer Center and the Lucille Parker Markey Cancer Center, the director of the Kentucky Cancer Registry, the ~~executive~~ director of the Division~~Office~~ of Women's Physical and Mental Health, one (1) radiologist with preference given to one who has been fellowship-trained in breast diagnostics and who shall be appointed by the Governor, one (1) representative of the Kentucky Office of Rural Health appointed by the Governor, one (1) representative of the Kentucky Commission on Women appointed by the Governor, and at least three (3) women who have had breast cancer and who shall be appointed by the Governor.

(6) The commissioner of the Department for Public Health, in consultation with the Breast Cancer Advisory Committee, shall annually, but no later than November 1 of each year, make a report to the Governor, the Legislative Research Commission, and the Interim Joint Committees on Appropriations and Revenue and on Health and Welfare on the:

(a) Implementation and outcome from the Breast Cancer Screening Program including, by geographic region, numbers of persons screened, numbers of cancers detected, referrals for treatment, and reductions in breast cancer

1 morbidity and mortality;

2 (b) Development of quality assurance guidelines, including timetables, for breast  
3 cancer screening under this section, and monitoring of the manner and effect  
4 of implementation of those guidelines; and

5 (c) Funds appropriated, received, and spent for breast cancer control by fiscal  
6 year.

7 Section 463. KRS 214.556 is amended to read as follows:

8 (1) There is hereby established within the Kentucky cancer program the Kentucky  
9 Cancer Registry and the cancer patient data management system for the purpose of  
10 providing accurate and up-to-date information about cancer in Kentucky and  
11 facilitating the evaluation and improvement of cancer prevention, screening,  
12 diagnosis, therapy, rehabilitation, and community care activities for citizens of the  
13 Commonwealth. The cancer patient data management system shall be administered  
14 by the Lucille Parker Markey Cancer Center.

15 (2) Each licensed health facility which provides diagnostic services, or diagnostic  
16 services and treatment, or treatment to cancer patients shall report to the Kentucky  
17 Cancer Registry, through the cancer patient data management system and in a  
18 format prescribed by the Kentucky Cancer Registry, each case of cancer seen at that  
19 health facility. Failure to comply may be cause for assessment of an administrative  
20 fine for the health facility, the same as for violation of KRS 216B.250.

21 (3) Each health facility shall grant to the cancer registry access to all records which  
22 would identify cases of cancer or would establish characteristics of the cancer,  
23 treatment of the cancer, or status of any identified cancer patient. Hospitals actively  
24 participating and enrolled in the cancer patient data management system of the  
25 Kentucky Cancer Program as of July 13, 1990, shall be considered to be in  
26 compliance with this section. The Lucille Parker Markey Cancer Center shall  
27 provide staff assistance in compiling and reporting required information to hospitals

1 which treat a low volume of patients.

2 (4) No liability of any kind or character for damages or other relief shall arise or be  
3 enforced against any licensed health facility by reason of having provided the  
4 information or material to the Kentucky Cancer Registry pursuant to the  
5 requirements of this section.

6 (5) The identity of any person whose condition or treatment has been reported to the  
7 Kentucky Cancer Registry shall be confidential, except that:

8 (a) The Kentucky Cancer Registry may exchange patient-specific data with any  
9 other cancer control agency or clinical facility for the purpose of obtaining  
10 information necessary to complete a case record, but the agency or clinical  
11 facility shall not further disclose such personal data; and

12 (b) The Kentucky Cancer Registry may contact individual patients if necessary to  
13 obtain follow-up information which is not available from the health facility.

14 (6) All information, interviews, reports, statements, memoranda, or other data furnished  
15 by reason of this section and any findings or conclusions resulting from those  
16 studies shall be privileged.

17 (7) The Kentucky Cancer Registry shall make periodic reports of its data and any  
18 related findings and recommendations to the Legislative Research Commission, the  
19 Interim Joint Committees on Appropriations and Revenue and on Health and  
20 Welfare, the Governor, the Cabinet for Health and Family Services, the reporting  
21 health facility, and other appropriate governmental and nongovernmental cancer  
22 control agencies whose intent it is to reduce the incidence, morbidity, and mortality  
23 of cancer. The Kentucky Cancer Registry may conduct analyses and studies as are  
24 indicated to advance cancer control in the Commonwealth.

25 Section 464. KRS 214.605 is amended to read as follows:

26 (1) The Cabinet for Health and Family Services shall establish a program to educate  
27 the public about the threat of acquired immunodeficiency syndrome.

- 1 (2) The Acquired Immunodeficiency Syndrome Education Program shall:
- 2 (a) Be designed to reach all segments of the Commonwealth's population;
- 3 (b) Contain special components designed to reach minority groups within the
- 4 state;
- 5 (c) Impart knowledge to the public about methods of transmission of acquired
- 6 immunodeficiency syndrome and methods of prevention;
- 7 (d) Educate the public about transmission risks in social, employment, and
- 8 educational situations;
- 9 (e) Educate health-care workers and health facilities' employees about methods of
- 10 transmission and prevention in their unique workplace environments;
- 11 (f) Contain special components designed to reach persons who may frequently
- 12 engage in behaviors placing them at a high risk for acquiring acquired
- 13 immunodeficiency syndrome;
- 14 (g) Provide information and consultation to state agencies to educate all state
- 15 employees;
- 16 (h) Provide information and consultation to state and local agencies to educate
- 17 law enforcement and correctional personnel and inmates;
- 18 (i) Provide information and consultation to local governments to educate local
- 19 government employees;
- 20 (j) Make information available to private employers and encourage them to
- 21 distribute this information to their employees; and
- 22 (k) Contain special components which emphasize appropriate behavior and
- 23 attitude change.
- 24 (3) The program designed by the Cabinet for Health and Family Services shall utilize
- 25 all appropriate forms of the media and shall identify sources of educational
- 26 materials that can be used by businesses, schools, and health-care providers in the
- 27 regular course of their business.

- 1 (4) The department may contract with other persons in the design, development, and  
2 distribution of the components of the education program.

3 Section 465. KRS 214.610 is amended to read as follows:

- 4 (1) (a) The Cabinet for Health and Family Services or the licensing board or  
5 certifying entity, subject to the board's or entity's discretion, shall approve  
6 appropriate educational courses on the transmission, control, treatment, and  
7 prevention of the human immunodeficiency virus and acquired  
8 immunodeficiency syndrome, that may address appropriate behavior and  
9 attitude change, to be completed as specified in the respective chapters by  
10 each person licensed or certified under KRS Chapters 311, 311A, 312, 313,  
11 314, 315, 320, 327, 333, and 335. Each licensing board or certifying entity  
12 shall have the authority to determine whether it shall approve courses or use  
13 courses approved by the cabinet. Completion of the courses shall be required  
14 at the time of initial licensure or certification in the Commonwealth, as  
15 required under KRS 214.615 and 214.620, and shall not be required under this  
16 section or any other section more frequently than one (1) time every ten (10)  
17 years thereafter, unless the licensing board or certifying entity specifically  
18 requires more frequent completion under administrative regulations  
19 promulgated in accordance with KRS Chapter 13A.

- 20 (b) The Department for Public Health shall publish on its Web site the current  
21 informational resources for the development of the educational courses or  
22 programs. To the extent possible, the educational courses or programs under  
23 this subsection shall:

- 24 1. Include changes in Kentucky law affecting HIV testing and reporting;  
25 confidentiality and privacy of HIV-related data, information, and  
26 reports; and advances in treatment protocols, intervention protocols,  
27 coordination of services, and other information deemed important by the



1 Department for Public Health and the Centers for Disease Control and  
2 Prevention (CDC);

3 2. Inform all professions involved with or affected by the birthing process  
4 about the importance of HIV testing of pregnant women and the  
5 probability of preventing perinatal transmission of HIV with appropriate  
6 treatment; and

7 3. Update all health care professionals identified under paragraph (a) of  
8 this subsection requesting information about the potential involvement  
9 of their occupation in the treatment or prevention of blood-borne  
10 pathogens with the latest CDC guidelines on occupational exposure to  
11 HIV and other blood-borne pathogens.

12 (2) Each licensee or certificate holder shall submit confirmation on a form provided by  
13 the cabinet of having completed the course by July 1, 1991, except persons licensed  
14 under KRS Chapters 314 and 327 for whom the completion date shall be July 1,  
15 1992.

16 Section 466. KRS 214.620 is amended to read as follows:

17 (1) The boards of the professions in KRS Chapter 311A and KRS 311.450, 311.571,  
18 311.601, 312.085, 312.175, 313.040, 313.080, 313.290, 313.305, 314.041, 314.042,  
19 314.051, 314.073, 315.050, 315.065, 320.250, 320.280, 327.050, 333.100, 333.190,  
20 335.080, 335.090, 335.100, and 335.150, and the Cabinet for Health and Family  
21 Services shall begin planning for the implementation of those sections listed above  
22 which require, as a part of initial licensure or certification, applicants for certain  
23 specified professions to complete an educational course on the transmission,  
24 control, treatment, and prevention of human immunodeficiency virus and acquired  
25 immunodeficiency syndrome. The planning shall include collecting information  
26 from the facilities and programs which educate and train the licensed professionals  
27 affected by the licensure requirements of those sections listed above and shall also

1 include developing administrative regulations for the implementation of the  
2 licensure requirements.

3 (2) The Cabinet for Health and Family Services shall develop, if requested by a  
4 licensing board or certifying entity, instructional material on the human  
5 immunodeficiency virus, including information related to methods of transmission,  
6 education, and infection control. The materials developed under this section shall be  
7 provided to persons licensed under KRS Chapters 317 and 317A. Costs of  
8 production and distribution of the instructional materials shall be wholly assumed  
9 from the fees assessed by the licensing boards which regulate the professionals who  
10 are provided with educational materials under this section. To expeditiously and  
11 economically develop, produce, and distribute the instructional material required  
12 under this section, the Cabinet for Health and Family Services shall consult with  
13 the professional associations of professions to determine whether suitable  
14 instructional materials already exist that may be lawfully reproduced or reprinted.

15 (3) The Cabinet for Human Resources shall require that, by July 1, 1992, all employees  
16 of health facilities defined in KRS 216B.015 shall have completed an educational  
17 course on the transmission, control, treatment, and prevention of the human  
18 immunodeficiency virus and acquired immunodeficiency syndrome with an  
19 emphasis on appropriate behavior and attitude change except for those employees  
20 who shall have completed such a course as required for their professional licensure  
21 or upon evidence that the employee received such a course from another health  
22 facility where the employee was previously employed.

23 (4) Information on the human immunodeficiency virus infection shall be presented to  
24 any person who receives treatment at any hospital, however named, skilled-nursing  
25 facilities, primary-care centers, rural health clinics, outpatient clinics, ambulatory-  
26 care facilities, ambulatory surgical centers, and emergency-care centers licensed  
27 pursuant to KRS Chapter 216B. The information shall include but not be limited to

1 methods of transmission and prevention and appropriate behavior and attitude  
2 change.

- 3 (5) Notwithstanding any provision of law to the contrary, the licensing board or  
4 certifying entity of any profession required to complete the course described in  
5 subsection (1) or (2) of this section shall have the discretion to develop and approve  
6 its own instructional course to be required for the profession under the jurisdiction  
7 of the respective licensing board or certifying entity.

8 Section 467. KRS 214.625 is amended to read as follows:

- 9 (1) The General Assembly finds that the use of tests designed to reveal a condition  
10 indicative of human immunodeficiency virus (HIV) infection can be a valuable tool  
11 in protecting the public health. The General Assembly finds that despite current  
12 scientific knowledge that zidovudine (AZT) prolongs the lives of acquired  
13 immunodeficiency syndrome victims, and may also be effective when introduced in  
14 the early stages of human immunodeficiency virus infection, many members of the  
15 public are deterred from seeking testing because they misunderstand the nature of  
16 the test or fear that test results will be disclosed without their consent. The General  
17 Assembly finds that the public health will be served by facilitating informed,  
18 voluntary, and confidential use of tests designed to detect human immunodeficiency  
19 virus infection.

- 20 (2) A person who has signed a general consent form for the performance of medical  
21 procedures and tests is not required to also sign or be presented with a specific  
22 consent form relating to medical procedures or tests to determine human  
23 immunodeficiency virus infection, antibodies to human immunodeficiency virus, or  
24 infection with any other causative agent of acquired immunodeficiency syndrome  
25 that will be performed on the person during the time in which the general consent  
26 form is in effect. However, a general consent form shall instruct the patient that, as  
27 part of the medical procedures or tests, the patient may be tested for human

1 immunodeficiency virus infection, hepatitis, or any other blood-borne infectious  
2 disease if a doctor orders the test for diagnostic purposes. Except as otherwise  
3 provided in subsection (5)(c) of this section, the results of a test or procedure to  
4 determine human immunodeficiency virus infection, antibodies to human  
5 immunodeficiency virus, or infection with any probable causative agent of acquired  
6 immunodeficiency syndrome performed under the authorization of a general  
7 consent form shall be used only for diagnostic or other purposes directly related to  
8 medical treatment.

9 (3) In any emergency situation where informed consent of the patient cannot reasonably  
10 be obtained before providing health-care services, there is no requirement that a  
11 health-care provider obtain a previous informed consent.

12 (4) The physician who orders the test pursuant to subsections (1) and (2) of this section,  
13 or the attending physician, shall be responsible for informing the patient of the  
14 results of the test if the test results are positive for human immunodeficiency virus  
15 infection. If the tests are positive, the physician shall also be responsible for either:

16 (a) Providing information and counseling to the patient concerning his infection  
17 or diagnosis and the known medical implications of such status or condition;  
18 or

19 (b) Referring the patient to another appropriate professional or health-care facility  
20 for the information and counseling.

21 (5) (a) No person in this state shall perform a test designed to identify the human  
22 immunodeficiency virus, or its antigen or antibody, without first obtaining the  
23 informed consent of the person upon whom the test is being performed, except  
24 as specified in subsections (2) and (3) of this section.

25 (b) No test result shall be determined as positive, and no positive test result shall  
26 be revealed to any person, without corroborating or confirmatory tests being  
27 conducted.

1 (c) No person who has obtained or has knowledge of a test result pursuant to this  
2 section shall disclose or be compelled to disclose the identity of any person  
3 upon whom a test is performed, or the results of the test in a manner which  
4 permits identification of the subject of the test, except to the following  
5 persons:

- 6 1. The subject of the test or the subject's legally authorized representative;
- 7 2. Any person designated in a legally effective release of the test results  
8 executed prior to or after the test by the subject of the test or the  
9 subject's legally authorized representative;
- 10 3. A physician, nurse, or other health-care personnel who has a legitimate  
11 need to know the test result in order to provide for his protection and to  
12 provide for the patient's health and welfare;
- 13 4. Health-care providers consulting between themselves or with health-care  
14 facilities to determine diagnosis and treatment;
- 15 5. The cabinet, in accordance with rules for reporting and controlling the  
16 spread of disease, as otherwise provided by state law;
- 17 6. A health facility or health-care provider which procures, processes,  
18 distributes, or uses:
  - 19 a. A human body part from a deceased person, with respect to  
20 medical information regarding that person; or
  - 21 b. Semen provided prior to July 13, 1990, for the purpose of artificial  
22 insemination;
- 23 7. Health facility staff committees, for the purposes of conducting program  
24 monitoring, program evaluation, or service reviews;
- 25 8. Authorized medical or epidemiological researchers who shall not further  
26 disclose any identifying characteristics or information;
- 27 9. A parent, foster parent, or legal guardian of a minor; a crime victim; or a

1 person specified in KRS 438.250;

2 10. A person allowed access by a court order which is issued in compliance  
3 with the following provisions:

4 a. No court of this state shall issue an order to permit access to a test  
5 for human immunodeficiency virus performed in a medical or  
6 public health setting to any person not authorized by this section or  
7 by KRS 214.420. A court may order an individual to be tested for  
8 human immunodeficiency virus only if the person seeking the test  
9 results has demonstrated a compelling need for the test results  
10 which cannot be accommodated by other means. In assessing  
11 compelling need, the court shall weigh the need for testing and  
12 disclosure against the privacy interest of the test subject and the  
13 public interest which may be disserved by disclosure which deters  
14 blood, organ, and semen donation and future human  
15 immunodeficiency virus-related testing or which may lead to  
16 discrimination. This paragraph shall not apply to blood bank donor  
17 records;

18 b. Pleadings pertaining to disclosure of test results shall substitute a  
19 pseudonym for the true name of the subject of the test. The  
20 disclosure to the parties of the subject's true name shall be  
21 communicated confidentially, in documents not filed with the  
22 court;

23 c. Before granting any order, the court shall provide the individual  
24 whose test result is in question with notice and a reasonable  
25 opportunity to participate in the proceedings if he is not already a  
26 party;

27 d. Court proceedings as to disclosure of test results shall be

1 conducted in camera, unless the subject of the test agrees to a  
2 hearing in open court or unless the court determines that a public  
3 hearing is necessary to the public interest and the proper  
4 administration of justice; and

- 5 e. Upon the issuance of an order to disclose test results, the court  
6 shall impose appropriate safeguards against unauthorized  
7 disclosure, which shall specify the persons who may have access to  
8 the information, the purposes for which the information shall be  
9 used, and appropriate prohibitions on future disclosure.

10 No person to whom the results of a test have been disclosed shall disclose the  
11 test results to another person except as authorized by this subsection. When  
12 disclosure is made pursuant to this subsection, it shall be accompanied by a  
13 statement in writing which includes the following or substantially similar  
14 language: "This information has been disclosed to you from records whose  
15 confidentiality is protected by state law. State law prohibits you from making  
16 any further disclosure of such information without the specific written consent  
17 of the person to whom such information pertains, or as otherwise permitted by  
18 state law. A general authorization for the release of medical or other  
19 information is NOT sufficient for this purpose." An oral disclosure shall be  
20 accompanied by oral notice and followed by a written notice within ten (10)  
21 days.

- 22 (6) (a) The Cabinet for Health and Family Services shall establish a network of  
23 voluntary human immunodeficiency virus testing programs in every county in  
24 the state. These programs shall be conducted in each public health department  
25 established under the provisions of KRS Chapter 211. Additional programs  
26 may be contracted to other private providers to the extent that finances permit  
27 and local circumstances dictate.

- 1 (b) Each public health department shall have the ability to provide counseling and  
2 testing for the human immunodeficiency virus to each patient who receives  
3 services and shall offer the testing on a voluntary basis to each patient who  
4 requests the test.
- 5 (c) Each public health department shall provide a program of counseling and  
6 testing for human immunodeficiency virus infection, on an anonymous or  
7 confidential basis, dependent on the patient's desire. If the testing is performed  
8 on an anonymous basis, only the statistical information relating to a positive  
9 test for human immunodeficiency virus infection shall be reported to the  
10 cabinet. If the testing is performed on a confidential basis, the name and other  
11 information specified in KRS 214.645 shall be reported to the cabinet. The  
12 cabinet shall continue to provide for anonymous testing and counseling.
- 13 (d) The result of a serologic test conducted under the auspices of the cabinet shall  
14 not be used to determine if a person may be insured for disability, health, or  
15 life insurance or to screen or determine suitability for, or to discharge a person  
16 from, employment. Any person who violates the provisions of this subsection  
17 shall be guilty of a Class A misdemeanor.
- 18 (7) No public health department and no other person in this state shall conduct or hold  
19 themselves out to the public as conducting a testing program for acquired  
20 immunodeficiency syndrome, acquired immunodeficiency syndrome related  
21 complex, or human immunodeficiency virus status without first registering with the  
22 cabinet, complying with all other applicable provisions of state law, and meeting the  
23 following requirements:
- 24 (a) The program shall be directed by a person who has completed an educational  
25 course approved by the cabinet in the counseling of persons with acquired  
26 immunodeficiency syndrome, acquired immunodeficiency syndrome related  
27 complex, or human immunodeficiency virus infection;



- 1 (b) The program shall have all medical care supervised by a physician licensed  
2 under the provisions of KRS Chapter 311;
- 3 (c) The program shall have all laboratory procedures performed in a laboratory  
4 licensed under the provisions of KRS Chapter 333;
- 5 (d) Informed consent shall be required prior to testing. Informed consent shall be  
6 preceded by an explanation of the test, including its purpose, potential uses,  
7 and limitations and the meaning of its results;
- 8 (e) The program, unless it is a blood donor center, shall provide pretest  
9 counseling on the meaning of a test for human immunodeficiency virus,  
10 including medical indications for the test; the possibility of false positive or  
11 false negative results; the potential need for confirmatory testing; the potential  
12 social, medical, and economic consequences of a positive test result; and the  
13 need to eliminate high-risk behavior;
- 14 (f) The program shall provide supplemental corroborative testing on all positive  
15 test results before the results of any positive test is provided to the patient;
- 16 (g) The program shall provide post-test counseling, in person, on the meaning of  
17 the test results; the possible need for additional testing; the social, medical,  
18 and economic consequences of a positive test result; and the need to eliminate  
19 behavior which might spread the disease to others;
- 20 (h) Each person providing post-test counseling to a patient with a positive test  
21 result shall receive specialized training, to be specified by regulation of the  
22 cabinet, about the special needs of persons with positive results, including  
23 recognition of possible suicidal behavior, and shall refer the patient for further  
24 health and social services as appropriate;
- 25 (i) When services are provided for a charge during pretest counseling, testing,  
26 supplemental testing, and post-test counseling, the program shall provide a  
27 complete list of all charges to the patient and the cabinet; and

(j) Nothing in this subsection shall be construed to require a facility licensed under KRS Chapter 333 or a person licensed under the provisions of KRS Chapters 311, 312, or 313 to register with the cabinet if he or she does not advertise or hold himself or herself out to the public as conducting testing programs for human immunodeficiency virus infection or specializing in such testing.

(8) Any violation of this section by a licensed health-care provider shall be a ground for disciplinary action contained in the professional's respective licensing chapter.

(9) Except as provided in subsection (6)(d) of this section and KRS 304.12-013, insurers and others participating in activities related to the insurance application and underwriting process shall be exempt from this section.

(10) The cabinet shall develop program standards consistent with the provisions of this section for counseling and testing persons for the human immunodeficiency virus.

Section 468. KRS 214.640 is amended to read as follows:

(1) The Cabinet for Health and Family Services may create, to the extent permitted by available staffing and funding, an HIV and AIDS Advisory Council to consist of no more than thirty (30) members, for the purpose of advising the cabinet on the formulation of HIV and AIDS policy. Membership on the committee shall be drawn from the following:

(a) The commissioner of the Department for Public Health;

(b) The commissioner of the Department for Medicaid Services;

(c) Representatives of other state agencies or boards that provide services to clients of HIV or AIDS services or that provide education to professionals who come into contact with HIV or AIDS clients, as designated by the Governor;

(d) Physicians representing different geographic regions of the state;

(e) HIV or AIDS clients; and

1 (f) Representatives of community-based organizations from different geographic  
2 regions of the state.

3 To the extent possible, membership of the council shall reflect the epidemiology of  
4 the HIV/AIDS epidemic.

5 (2) The members designated under paragraphs (a) to (c) of subsection (1) of this section  
6 shall serve for the duration of service in their offices, subject to removal for cause  
7 by the Governor. These members shall not be paid for attending council meetings  
8 but may receive reimbursement of expenses.

9 (3) The members serving under paragraphs (d) to (f) of subsection (1) of this section  
10 shall be appointed by the cabinet from lists submitted by the appropriate licensing  
11 entities of the profession involved, by the cabinet, and by community-based  
12 organizations. These members shall serve for a term of four (4) years and may be  
13 reappointed, but the members shall not serve for more than two (2) consecutive  
14 terms.

15 (4) The chair of the council shall be elected from the membership serving under  
16 paragraphs (d) to (f) of subsection (1) of this section.

17 (5) The functions of the council shall include but shall not be limited to:

18 (a) Reporting its findings to the cabinet and monitoring the responsiveness of the  
19 cabinet to insure that the council's recommendations are being followed;

20 (b) Exploring the feasibility, design, cost, and necessary funding for centers of  
21 excellence to deliver comprehensive, coordinated medical and related care to  
22 all people with HIV or AIDS in the Commonwealth based on national clinical  
23 guidelines and practice standards. Coordinated medical care shall include but  
24 not be limited to access to:

- 25 1. AIDS primary care;
- 26 2. Drug therapy;
- 27 3. Specialists' care, including psychiatric and other mental health

1 providers;

2 4. Case management services;

3 5. Dental care;

4 6. Chemical dependency treatment; and

5 7. Basic needs, including but not limited to housing and food;

6 (c) Assessing resources and gaps in services provided for persons with HIV or  
7 AIDS;

8 (d) Subdividing into necessary subcommittees. One (1) subcommittee may be  
9 formed that will consist solely of persons living with HIV or AIDS. This  
10 subcommittee shall make those recommendations as it deems necessary to the  
11 council, including recommendations on effective peer-based prevention  
12 programs; and

13 (e) Reporting its findings and recommendations to the General Assembly and the  
14 Interim Joint Committee on Health and Welfare by September 1, 2001, and by  
15 September 1 of each year thereafter.

16 Section 469. KRS 214.645 is amended to read as follows:

17 (1) The Cabinet for Health and Family Services shall establish a system for reporting,  
18 by the use of the person's name, of all persons who test positive for the human  
19 immunodeficiency virus (HIV) infection. The reporting shall include the data  
20 including, but not limited to, CD4 count and viral load, and other information that  
21 are necessary to comply with the confidentiality and reporting requirements of the  
22 most recent edition of the Centers for Disease Control and Prevention's (CDC)  
23 Guidelines for National Human Immunodeficiency Virus Case Surveillance. As  
24 recommended by the CDC, anonymous testing shall remain as an alternative. If less  
25 restrictive data identifying requirements are identified by the CDC, the cabinet shall  
26 evaluate the new requirements for implementation.

27 (2) The reporting system established under subsection (1) of this section shall:

- 1 (a) Use the same confidential name-based approach for HIV surveillance that is
- 2 used for AIDS surveillance by the cabinet;
- 3 (b) Attempt to identify all modes of HIV transmission, unusual clinical or
- 4 virologic manifestations, and other cases of public health importance;
- 5 (c) Require collection of the names and data from all private and public sources
- 6 of HIV-related testing and care services; and
- 7 (d) Use reporting methods that match the CDC's standards for completeness,
- 8 timeliness, and accuracy, and follow up, as necessary, with the health care
- 9 provider making the report to verify completeness, timeliness, and accuracy.
- 10 (3) Authorized surveillance staff designated by the cabinet shall:
- 11 (a) Match the information from the reporting system to other public health
- 12 databases, wherever possible, to limit duplication and to better quantify the
- 13 extent of HIV infection in the Commonwealth;
- 14 (b) Conduct a biennial assessment of the HIV and AIDS reporting systems, insure
- 15 that the assessment is available for review by the public and any state or
- 16 federal agency, and forward a copy of the assessment to the Legislative
- 17 Research Commission and the Interim Joint Committee on Health and
- 18 Welfare;
- 19 (c) Document the security policies and procedures and insure their availability for
- 20 review by the public or any state or federal agency;
- 21 (d) Minimize storage and retention of unnecessary paper or electronic reports and
- 22 insure that related policies are consistent with CDC technical guidelines;
- 23 (e) Assure that electronic transfer of data is protected by encryption during
- 24 transfer;
- 25 (f) Provide that records be stored in a physically secluded area and protected by
- 26 coded passwords and computer encryption;
- 27 (g) Restrict access to data a minimum number of authorized surveillance staff

1           who are designated by a responsible authorizing official, who have been  
 2           trained in confidentiality procedures, and who are aware of penalties for  
 3           unauthorized disclosure of surveillance information;

4           (h) Require that any other public health program that receives data has  
 5           appropriate security and confidentiality protections and penalties;

6           (i) Restrict use of data, from which identifying information has been removed, to  
 7           cabinet-approved research, and require all persons with this use to sign  
 8           confidentiality statements;

9           (j) Prohibit release of any names or any other identifying information that may  
 10          have been received in a report to any person or organization, whether public or  
 11          private, except in compliance with federal law or consultations with other  
 12          state surveillance programs and reporting sources. Under no circumstances  
 13          shall a name or any identifying information be reported to the CDC; and

14          (k) Immediately investigate any report of breach of reporting, surveillance, or  
 15          confidentiality policy, report the breach to the CDC, develop  
 16          recommendations for improvements in security measure, and take appropriate  
 17          disciplinary action for any documented breach.

18       (4) The cabinet shall require any physician or medical laboratory that receives a report  
 19       of a positive test for the human immunodeficiency virus to report that information  
 20       by reference to the name in accordance with the procedure for establishing name  
 21       reporting required by the cabinet in an administrative regulation.

22       Section 470. KRS 214.990 is amended to read as follows:

23       (1) Every head of a family who willfully fails or refuses and every physician who fails  
 24       or refuses to comply with KRS 214.010 shall be guilty of a violation for each day he  
 25       neglects or refuses to report. Repeated failure to report is sufficient cause for the  
 26       revocation of a physician's certificate to practice medicine in this state.

27       (2) Any owner or person having charge of any public or private conveyance, including

1       watercraft, who refuses to obey the rules and regulations made by the Cabinet for  
2       Health and Family Services under KRS 214.020 shall be guilty of a Class B  
3       misdemeanor.

4       (3) Any physician or other person legally permitted to engage in attendance upon a  
5       pregnant woman during pregnancy or at delivery who fails to exercise due diligence  
6       in complying with KRS 214.160 and 214.170 shall be guilty of a violation.

7       (4) Any person who violates any of the provisions of KRS 214.280 to 214.310 shall be  
8       guilty of a Class A misdemeanor.

9       (5) Any person who violates any provision of KRS 214.034 or KRS 158.035 shall be  
10      guilty of a Class B misdemeanor.

11      (6) Any person who violates any provision of KRS 214.420 shall be guilty of a  
12      violation. Each violation shall constitute a separate offense.

13      (7) Any person who knowingly violates any provision of KRS 214.452 to 214.466 shall  
14      be guilty of a Class D felony. Each violation shall constitute a separate offense.

15      Section 471. KRS 215.520 is amended to read as follows:

16      The secretary of the Cabinet for Health and Family Services shall discharge all duties  
17      relating to all matters of tuberculosis control, including, but not limited to, the following:

18      (1) The facilitation of appropriate clinical services for either recalcitrant or drug  
19      resistant persons with active tuberculosis for which failure to provide services will  
20      lead to further spread of disease in the Commonwealth;

21      (2) The promulgation of administrative regulations pursuant to KRS Chapter 13A for  
22      the purpose of carrying out the directives of this section, KRS 215.540, 215.550,  
23      215.560, 215.570, 215.580, 215.590, and 215.600;

24      (3) The maintenance of a central register of all known cases of tuberculosis in the  
25      Commonwealth, and local registers as desirable, and the collection, collation,  
26      analysis, and publication of statistics and other information;

27      (4) The facilitation of tuberculosis programs in cooperation with the Department of

1 Corrections, Department of Education, and other state agencies within their  
2 respective jurisdictions;

3 (5) The establishment within the Cabinet for Health and Family Services of  
4 appropriate social service and financial responsibility appraisal methods to insure  
5 that tuberculosis patients or suspects receive all possible support from third-party  
6 payors, or from the Medical Assistance Program. The Cabinet for Health and  
7 Family Services may contract for services for persons with tuberculosis, either  
8 directly or through local health departments, and may pay the rates it deems  
9 necessary as a charge against the tuberculosis control funds of the Commonwealth;

10 (6) The dissemination of educational materials to the citizens of the Commonwealth  
11 regarding tuberculosis and its control;

12 (7) The initiation of special programs and demonstrations in cooperation with agencies  
13 of the federal government, universities, voluntary agencies, and other individuals or  
14 corporations;

15 (8) The provision of direct assistance to local health departments, to other agencies of  
16 state government, and to other organizations to assist them in carrying out  
17 education, prevention, and treatment programs of tuberculosis control; and

18 (9) Except as otherwise provided by law, to do all other things reasonably necessary to  
19 carry out the intent of this section and KRS 215.540 to 215.600.

20 Section 472. KRS 215.590 is amended to read as follows:

21 (1) A health service or health facility required to be licensed pursuant to KRS Chapter  
22 216B or KRS Chapter 333, a health provider required to be licensed pursuant to  
23 KRS Chapters 311, 312, 313, 314, 315, or 320, or any other person who has  
24 knowledge of a person who has active tuberculosis, shall report the case to the local  
25 health department in accordance with the administrative regulations of the Cabinet  
26 for Health and Family Services promulgated pursuant to KRS Chapter 13A.

27 (2) Physicians, hospitals, laboratories, or other institutions which perform related drug



1 susceptibility tests on tubercle bacilli shall report the results of the testing to the  
2 local health department in accordance with the administrative regulations of the  
3 Cabinet for Health and Family Services promulgated pursuant to KRS Chapter  
4 13A. All reports of drug-resistant tubercle bacilli shall be made regardless of  
5 previous reports.

- 6 (3) No legal action shall lie against any physician, hospital employee, laboratory  
7 employee, or other person who, in good faith, reports a case of tuberculosis or the  
8 isolation of the tubercle bacillus as provided in this section, KRS 215.511, 215.520,  
9 215.531, 215.540, 215.550, 215.560, 215.570, 215.580, and 215.600.

10 Section 473. KRS 216.2920 is amended to read as follows:

11 As used in KRS 216.2920 to 216.2929, unless the context requires otherwise:

- 12 (1) "Ambulatory facility" means a facility, including an ambulatory surgical facility,  
13 ambulatory care clinic, alternative birth center, mobile health service, or a  
14 specialized medical technology service, which is not part of a hospital, and which is  
15 licensed pursuant to KRS Chapter 216B, and which provides one (1) or more major  
16 ambulatory procedures to patients not requiring hospitalization;
- 17 (2) "Cabinet" means the Cabinet for Health and Family Services;
- 18 (3) "Charge" means all amounts billed by a hospital or ambulatory facility, including  
19 charges for all ancillary and support services or procedures, prior to any adjustment  
20 for bad debts, charity contractual allowances, administrative or courtesy discounts,  
21 or similar deductions from revenue. However, if necessary to achieve comparability  
22 of information between providers, charges for the professional services of hospital-  
23 based or ambulatory-facility-based physicians shall be excluded from the  
24 calculation of charge;
- 25 (4) "Facility" means any hospital or other health care facility, whether operated for  
26 profit or not, required to be licensed pursuant to KRS Chapter 216B;
- 27 (5) "Health-care provider" or "provider" means any facility and service required to be

1 licensed pursuant to KRS Chapter 216B, pharmacist as defined pursuant to KRS  
2 Chapter 315, and any of the following independent practicing practitioners:

- 3 (a) Physicians, osteopaths, and podiatrists licensed pursuant to KRS Chapter 311;
- 4 (b) Chiropractors licensed pursuant to KRS Chapter 312;
- 5 (c) Dentists licensed pursuant to KRS Chapter 313;
- 6 (d) Optometrists licensed pursuant to KRS Chapter 320;
- 7 (e) Physician assistants regulated pursuant to KRS Chapter 311;
- 8 (f) Nurse practitioners licensed pursuant to KRS Chapter 314; and
- 9 (g) Other health-care practitioners as determined by the Cabinet for Health and  
10 Family Services by administrative regulation promulgated pursuant to KRS  
11 Chapter 13A.

12 (6) "Hospital" means a facility licensed pursuant to KRS Chapter 216B as either an  
13 acute-care hospital, psychiatric hospital, rehabilitation hospital, or chemical  
14 dependency treatment facility;

15 (7) "Procedures" means those surgical, medical, radiological, diagnostic, or therapeutic  
16 procedures performed by a provider, as periodically determined by the cabinet in  
17 administrative regulations promulgated pursuant to KRS Chapter 13A as those for  
18 which reports to the cabinet shall be required. "Procedures" also includes  
19 procedures that are provided in hospitals or other licensed ambulatory facilities, or  
20 those which require the use of special equipment, including fluoroscopic equipment,  
21 computer tomographic scanners, magnetic resonance imagers, mammography,  
22 ultrasound equipment, or any other new technology as periodically determined by  
23 the cabinet;

24 (8) "Quality" means the extent to which a provider renders care which obtains for  
25 patients optimal health outcomes; and

26 (9) "Secretary" means the secretary of the Cabinet for Health and Family Services.

27 Section 474. KRS 216.2921 is amended to read as follows:

- 1 (1) The Cabinet for Health and Family Services shall collect, pursuant to KRS  
2 216.2925, analyze, and disseminate information in a timely manner on the cost,  
3 quality, and outcomes of health services provided by health facilities and health-  
4 care providers in the Commonwealth. The cabinet shall make every effort to make  
5 health data findings that can serve as a basis to educate consumers and providers for  
6 the purpose of improving patient morbidity and mortality outcomes available to the  
7 public, and state and local leaders in health policy, through the cost-effective and  
8 timely use of the media and the Internet and through distribution of the findings to  
9 health facilities and health-care providers for further dissemination to their patients.
- 10 (2) The secretary of the Cabinet for Health and Family Services shall serve as chief  
11 administrative officer for the health data collection functions of KRS 216.2920 to  
12 216.2929.
- 13 (3) Neither the secretary nor any employee of the cabinet shall be subject to any  
14 personal liability for any loss sustained or damage suffered on account of any action  
15 or inaction of under KRS 216.2920 to 216.2929.
- 16 Section 475. KRS 216.2925 is amended to read as follows:
- 17 (1) The Cabinet for Health and Family Services shall establish by promulgation of  
18 administrative regulations pursuant to KRS Chapter 13A, no later than January 1,  
19 1995, those data elements required to be submitted to the cabinet by all licensed  
20 hospitals and ambulatory facilities, including a timetable for submission and  
21 acceptable data forms. Thereafter, every hospital and ambulatory facility shall be  
22 required to report, on a periodic basis, which may include quarterly reporting,  
23 information regarding the charge for and quality of the procedures and health-care  
24 services performed therein, and as stipulated by administrative regulations  
25 promulgated pursuant to KRS Chapter 13A. The cabinet shall accept data which, at  
26 the option of the provider is submitted through a third party, including, but not  
27 limited to, organizations involved in the processing of claims for payment, so long

1 as the data elements conform to the requirements established by the cabinet. The  
2 cabinet may conduct statistical surveys of a sample of hospitals, ambulatory  
3 facilities, or other providers in lieu of requiring the submission of information by all  
4 hospitals, ambulatory facilities, or providers. On at least a biennial basis, the cabinet  
5 shall conduct a statistical survey that addresses the status of women's health,  
6 specifically including data on patient age, ethnicity, geographic region, and payor  
7 sources. The cabinet shall rely on data from readily available reports and statistics  
8 whenever possible.

9 (2) The cabinet shall require for submission to the cabinet by any group of providers,  
10 except for physicians providing services or dispensaries, first aid stations, or clinics  
11 located within business or industrial establishments maintained solely for the use of  
12 their employees, including those categories within the definition of provider  
13 contained in KRS 216.2920 and any further categories determined by the cabinet, at  
14 the beginning of each fiscal year after January 1, 1995, and within the limits of the  
15 state, federal, and other funds made available to the cabinet for that year, and as  
16 provided by cabinet promulgation of administrative regulations pursuant to KRS  
17 Chapter 13A, the following:

- 18 (a) A list of medical conditions, health services, and procedures for which charge  
19 and quality data shall be collected and published at specified time intervals  
20 and in a specified manner;
- 21 (b) A timetable for filing data, which may include quarterly reporting of the  
22 information provided for under paragraph (a) of this subsection;
- 23 (c) A list of data elements that are necessary to enable the cabinet to analyze and  
24 disseminate risk-adjusted charge, quality, and outcome information, including  
25 mortality and morbidity data;
- 26 (d) An acceptable format for data submission which shall include use of the  
27 uniform health claim form pursuant to KRS 304.14-135 or any other universal

- 1 health claim form to be determined by the cabinet, and which may be in the  
2 form of magnetic computer tape, computer diskettes, or other electronic  
3 media, or through an electronic network, or in the form of hard copy;
- 4 (e) Procedures to allow health-care providers at least thirty (30) days to review  
5 information generated from any data required to be submitted by them, with  
6 any reports generated by the cabinet to reflect valid corrections by the provider  
7 before the information is released to the public; and
- 8 (f) Procedures pertaining to the confidentiality of data collected.
- 9 (3) The cabinet shall coordinate its data-gathering activities with other data-collection  
10 activities conducted by the Department of Insurance, as well as other state agencies  
11 which collect health-related service, utilization, financial, and health-care personnel  
12 data, and shall review all administrative regulations promulgated pursuant to KRS  
13 216.2920 to 216.2929 to prevent duplicate filing requirements. The cabinet shall  
14 periodically review the use of all data collected under KRS 216.2920 to 216.2929 to  
15 assure its use is consistent with legislative intent.
- 16 (4) The cabinet shall conduct outcome analyses and effectiveness studies and prepare  
17 other reports pertaining to issues involving health-care charges and quality.
- 18 (5) The cabinet may independently audit any data required to be submitted by providers  
19 as needed to corroborate the accuracy of the submitted data. Any audit may be at the  
20 expense of the cabinet and shall, to the extent practicable, be coordinated with other  
21 audits performed by state agencies.
- 22 (6) The cabinet may initiate activities set forth in subsection (1) or (2) of this section at  
23 any time after July 15, 1996.
- 24 (7) The Cabinet for Health and Family Services shall collect all data elements under  
25 this section using only the uniform health insurance claim form pursuant to KRS  
26 304.14-135.
- 27 Section 476. KRS 216.2929 is amended to read as follows:

- 1 (1) The Cabinet for Health and Family Services shall at least annually, on or before  
2 July 1, prepare and publish, in understandable language with sufficient explanation  
3 to allow consumers to draw meaningful comparisons, a report or reports on health-  
4 care charges, quality, and outcomes which includes diagnosis-specific or procedure-  
5 specific comparisons for each hospital and ambulatory facility, differentiated by  
6 payor if relevant, and for other provider groups as relevant data becomes available.
- 7 (2) The cabinet shall at least annually, on or before October 1, submit to the Interim  
8 Joint Committees on Appropriations and Revenue and Health and Welfare and to  
9 the Governor a report on the operations and activities of the cabinet under KRS  
10 216.2920 to 216.2929 during the preceding fiscal year, including a copy of each  
11 study or report required or authorized under KRS 216.2920 to 216.2929 and any  
12 recommendations relating thereto.
- 13 (3) The cabinet shall report at least biennially, no later than October 1 of each odd-  
14 numbered year, to the Interim Joint Committees on Appropriations and Revenue  
15 and on Health and Welfare and to the Governor on matters pertaining to  
16 comparative health-care charges, quality, and outcomes, the effectiveness of its  
17 activities relating to educating consumers and containing health-care costs, and any  
18 recommendations regarding its data collection and dissemination activities.
- 19 (4) The cabinet shall report at least biennially, no later than October 1 of each odd-  
20 numbered year, on the special health needs of the minority population in the  
21 Commonwealth as compared to the population in the Commonwealth as compared  
22 to the population at large. The report shall be transmitted to the Interim Joint  
23 Committees on Appropriations and Revenue and Health and Welfare and to the  
24 Governor and shall contain an overview of the health status of minority  
25 Kentuckians, shall identify the diseases and conditions experienced at  
26 disproportionate mortality and morbidity rates within the minority population, and  
27 shall make recommendations to meet the identified health needs of the minority

1 population.

2 Section 477. KRS 216.313 is amended to read as follows:

3 As used in KRS 216.310 to 216.360:

- 4 (1) "Hospital" means a place devoted primarily to the maintenance and operation of  
5 facilities for the diagnosis, treatment, or care, for more than twenty-four (24) hours,  
6 of two (2) or more nonrelated individuals suffering from illness, disease, injury,  
7 deformity, or a place including nursing and convalescent homes and all institutions  
8 for the care of the sick, devoted primarily to providing, for more than twenty-four  
9 (24) hours, obstetrical or other medical or nursing care for two (2) or more  
10 nonrelated individuals;
- 11 (2) "District" means hospital district;
- 12 (3) "Board" means the governing body of a hospital district;
- 13 (4) "Secretary" means the secretary of the Cabinet for Health and Family Services or  
14 his designee; and
- 15 (5) "Medical service area" means the geographic territory from which patients come or  
16 are expected to come to existing or proposed health facilities as defined by the  
17 Cabinet for Health and Family Services.

18 Section 478. KRS 216.315 is amended to read as follows:

19 The secretary of the Cabinet for Health and Family Services shall, in addition to his other  
20 duties, act as secretary of hospital districts, and is vested with jurisdiction, power, and  
21 authority, when the conditions set forth in KRS 216.317 exist, to establish a hospital  
22 district within a medical service area as established by the secretary of the Cabinet for  
23 Health and Family Services.

24 Section 479. KRS 216.347 is amended to read as follows:

25 Within sixty (60) days after the close of each fiscal year the board shall make a written  
26 report to the secretary. A copy of this report shall be filed with the county clerk of each  
27 county within the district. The report shall contain:

- 1 (1) An itemized statement of the various sums of money received for the district;
- 2 (2) An itemized statement of expenditures from the fund;
- 3 (3) A statement of the property acquired by devise, bequests, purchase, gift, or
- 4 otherwise during the fiscal year;
- 5 (4) A statement of the character of hospital services furnished to the district during the
- 6 fiscal year; and
- 7 (5) Any other statistics or information requested by the Cabinet for Health and Family
- 8 Services.

9 Section 480. KRS 216.378 is amended to read as follows:

10 As used in KRS 216.378, 216.379, and 216.380, the following definitions shall apply:

- 11 (1) "Rural health network" means an organization that consists of at least one (1)
- 12 facility that has been or will be designated as a critical access hospital and at least
- 13 one (1) hospital that furnishes acute care services.
- 14 (2) "Secretary" means the secretary of the Cabinet for Health and Family Services.

15 Section 481. KRS 216.379 is amended to read as follows:

- 16 (1) The Cabinet for Health and Family Services shall make application to the Secretary
- 17 of the United States Department of Health and Human Services to establish a
- 18 Medicare Rural Hospital Flexibility Program in accordance with 42 U.S.C. sec.
- 19 1395i-4, as amended by the Balanced Budget Act of 1997, Pub. L. 105-33.
- 20 (2) The cabinet shall develop and submit as part of its application a rural health plan
- 21 that:
- 22 (a) Provides for the creation of one (1) or more rural health networks;
- 23 (b) Promotes regionalization of rural health services in the state;
- 24 (c) Improves access to hospital and other health services for rural residents of the
- 25 state; and
- 26 (d) Designates rural hospitals as critical access hospitals.
- 27 (3) The secretary shall designate as a critical access hospital any facility which



1 complies with the provisions of KRS 216.380.

2 Section 482. KRS 216.510 is amended to read as follows:

3 As used in KRS 216.515 to 216.530:

- 4 (1) "Long-term-care facilities" means those health-care facilities in the Commonwealth  
5 which are defined by the Cabinet for Health and Family Services to be family-care  
6 homes, personal-care homes, intermediate-care facilities, skilled-nursing facilities,  
7 nursing facilities as defined in Pub. L. 100-203, nursing homes, and intermediate-  
8 care facilities for the mentally retarded and developmentally disabled.
- 9 (2) "Resident" means any person who is admitted to a long-term-care facility as defined  
10 in KRS 216.515 to 216.530 for the purpose of receiving personal care and  
11 assistance.
- 12 (3) "Cabinet" means the Cabinet for Health and Family Services.

13 Section 483. KRS 216.515 is amended to read as follows:

14 Every resident in a long-term-care facility shall have at least the following rights:

- 15 (1) Before admission to a long-term-care facility, the resident and the responsible party  
16 or his responsible family member or his guardian shall be fully informed in writing,  
17 as evidenced by the resident's written acknowledgment and that of the responsible  
18 party or his responsible family member or his guardian, of all services available at  
19 the long-term-care facility. Every long-term-care facility shall keep the original  
20 document of each written acknowledgment in the resident's personal file.
- 21 (2) Before admission to a long-term-care facility, the resident and the responsible party  
22 or his responsible family member or his guardian shall be fully informed in writing,  
23 as evidenced by the resident's written acknowledgment and that of the responsible  
24 party or his responsible family member or his guardian, of all resident's  
25 responsibilities and rights as defined in this section and KRS 216.520 to 216.530.  
26 Every long-term-care facility shall keep the original document of each written  
27 acknowledgment in the resident's personal file.

- 1 (3) The resident and the responsible party or his responsible family member or his  
2 guardian shall be fully informed in writing, as evidenced by the resident's written  
3 acknowledgment and that of the responsible party or his responsible family  
4 member, or his guardian, prior to or at the time of admission and quarterly during  
5 the resident's stay at the facility, of all service charges for which the resident or his  
6 responsible family member or his guardian is responsible for paying. The resident  
7 and the responsible party or his responsible family member or his guardian shall  
8 have the right to file complaints concerning charges which they deem unjustified to  
9 appropriate local and state consumer protection agencies. Every long-term-care  
10 facility shall keep the original document of each written acknowledgment in the  
11 resident's personal file.
- 12 (4) The resident shall be transferred or discharged only for medical reasons, or his own  
13 welfare, or that of the other residents, or for nonpayment, except where prohibited  
14 by law or administrative regulation. Reasonable notice of such action shall be given  
15 to the resident and the responsible party or his responsible family member or his  
16 guardian.
- 17 (5) All residents shall be encouraged and assisted throughout their periods of stay in  
18 long-term care facilities to exercise their rights as a resident and a citizen, and to  
19 this end may voice grievances and recommend changes in policies and services to  
20 facility staff and to outside representatives of their choice, free from restraint,  
21 interference, coercion, discrimination, or reprisal.
- 22 (6) All residents shall be free from mental and physical abuse, and free from chemical  
23 and physical restraints except in emergencies or except as thoroughly justified in  
24 writing by a physician for a specified and limited period of time and documented in  
25 the resident's medical record.
- 26 (7) All residents shall have confidential treatment of their medical and personal records.  
27 Each resident or his responsible family member or his guardian shall approve or

1       refuse the release of such records to any individuals outside the facility, except as  
2       otherwise specified by statute or administrative regulation.

3       (8) Each resident may manage the use of his personal funds. If the facility accepts the  
4       responsibility for managing the resident's personal funds as evidenced by the  
5       facility's written acknowledgment, proper accounting and monitoring of such funds  
6       shall be made. This shall include each facility giving quarterly itemized statements  
7       to the resident and the responsible party or his responsible family member or his  
8       guardian which detail the status of the resident's personal funds and any transactions  
9       in which such funds have been received or disbursed. The facility shall return to the  
10      resident his valuables, personal possessions, and any unused balance of moneys  
11      from his account at the time of his transfer or discharge from the facility. In case of  
12      death or for valid reasons when he is transferred or discharged the resident's  
13      valuables, personal possessions, and funds that the facility is not liable for shall be  
14      promptly returned to the resident's responsible party or family member, or his  
15      guardian, or his executor.

16      (9) If a resident is married, privacy shall be assured for the spouse's visits and if they  
17      are both residents in the facility, they may share the same room unless they are in  
18      different levels of care or unless medically contraindicated and documented by a  
19      physician in the resident's medical record.

20      (10) Residents shall not be required to perform services for the facility that are not  
21      included for therapeutic purposes in their plan of care.

22      (11) Residents may associate and communicate privately with persons of their choice  
23      and send and receive personal mail unopened.

24      (12) Residents may retain the use of their personal clothing unless it would infringe upon  
25      the rights of others.

26      (13) No responsible resident shall be detained against his will. Residents shall be  
27      permitted and encouraged to go outdoors and leave the premises as they wish unless

- 1 a legitimate reason can be shown and documented for refusing such activity.
- 2 (14) Residents shall be permitted to participate in activities of social, religious, and  
3 community groups at their discretion.
- 4 (15) Residents shall be assured of at least visual privacy in multibed rooms and in tub,  
5 shower, and toilet rooms.
- 6 (16) The resident and the responsible party or his responsible family member or his  
7 guardian shall be permitted the choice of a physician.
- 8 (17) If the resident is adjudicated mentally disabled in accordance with state law, the  
9 resident's guardian shall act on the resident's behalf in order that his rights be  
10 implemented.
- 11 (18) Each resident shall be treated with consideration, respect, and full recognition of his  
12 dignity and individuality, including privacy in treatment and in care for his personal  
13 needs.
- 14 (19) Every resident and the responsible party or his responsible family member or his  
15 guardian has the right to be fully informed of the resident's medical condition unless  
16 medically contraindicated and documented by a physician in the resident's medical  
17 record.
- 18 (20) Residents have the right to be suitably dressed at all times and given assistance  
19 when needed in maintaining body hygiene and good grooming.
- 20 (21) Residents shall have access to a telephone at a convenient location within the  
21 facility for making and receiving telephone calls.
- 22 (22) The resident's responsible party or family member or his guardian shall be notified  
23 immediately of any accident, sudden illness, disease, unexplained absence, or  
24 anything unusual involving the resident.
- 25 (23) Residents have the right to have private meetings with the appropriate long-term  
26 care facility inspectors from the Cabinet for Health and Family Services.
- 27 (24) Each resident and the responsible party or his responsible family member or his

1 guardian has the right to have access to all inspection reports on the facility.

2 (25) The above-stated rights shall apply in all cases unless medically contraindicated and  
3 documented by a physician in writing in the resident's medical record.

4 (26) Any resident whose rights as specified in this section are deprived or infringed upon  
5 shall have a cause of action against any facility responsible for the violation. The  
6 action may be brought by the resident or his guardian. The action may be brought in  
7 any court of competent jurisdiction to enforce such rights and to recover actual and  
8 punitive damages for any deprivation or infringement on the rights of a resident.  
9 Any plaintiff who prevails in such action against the facility may be entitled to  
10 recover reasonable attorney's fees, costs of the action, and damages, unless the court  
11 finds the plaintiff has acted in bad faith, with malicious purpose, or that there was a  
12 complete absence of justifiable issue of either law or fact. Prevailing defendants  
13 may be entitled to recover reasonable attorney's fees. The remedies provided in this  
14 section are in addition to and cumulative with other legal and administrative  
15 remedies available to a resident and to the cabinet.

16 Section 484. KRS 216.520 is amended to read as follows:

17 For the purpose of supplementing the rights of residents in long-term-care facilities, such  
18 facilities shall take the following actions:

19 (1) Every long-term-care facility shall conspicuously post throughout the facility a  
20 listing of the residents' rights and responsibilities as defined in KRS 216.515 to  
21 216.525.

22 (2) Every long-term-care facility shall develop and implement a mechanism which will  
23 allow each resident and the responsible party or his responsible family member or  
24 his guardian to participate in the planning of the resident's care. Each resident shall  
25 be encouraged and provided assistance in the planning of his care.

26 (3) All long-term-care facilities shall establish written procedures for the submission  
27 and resolution of complaints and recommendations by the resident and the

1 responsible party or his responsible family member or his guardian. Such policies  
 2 shall be conspicuously displayed throughout the facility pending approval of their  
 3 adequacy by the cabinet.

4 (4) Every long-term-care facility shall prepare a written plan and provide appropriate  
 5 staff training to implement each of the residents' rights as defined in KRS 216.515  
 6 to 216.525.

7 (5) All long-term-care facilities shall maintain in their facilities one (1) copy of the  
 8 most recent inspection report as prepared by the Cabinet for Health and Family  
 9 Services. The cabinet shall provide all long-term-care facilities with one (1) copy of  
 10 the most recent inspection report.

11 Section 485. KRS 216.535 is amended to read as follows:

12 As used in KRS 216.537 to 216.590:

13 (1) "Long-term care facilities" means those health care facilities in the Commonwealth  
 14 which are defined by the Cabinet for Health and Family Services to be family care  
 15 homes, personal care homes, intermediate care facilities, skilled nursing facilities,  
 16 nursing facilities as defined in Pub. L. 100-203, nursing homes, and intermediate  
 17 care facilities for the mentally retarded and developmentally disabled.

18 (2) "Cabinet" means the Cabinet for Health and Family Services.

19 (3) "Resident" means any person admitted to a long-term care facility as defined by this  
 20 section.

21 (4) "Licensee" in the case of a licensee who is an individual means the individual, and  
 22 in the case of a licensee who is a corporation, partnership, or association means the  
 23 corporation, partnership, or association.

24 (5) "Secretary" means the secretary of the Cabinet for Health and Family Services.

25 (6) "Long-term care ombudsman" means the person responsible for the operation of a  
 26 long-term care ombudsman program which investigates and resolves complaints  
 27 made by or on behalf of residents of long-term care facilities.

1 (7) "Willful interference" means an intentional, knowing, or purposeful act or omission  
 2 which hinders or impedes the lawful performance of the duties and responsibilities  
 3 of the ombudsman as set forth in this chapter.

4 (8) The following information shall be available upon request of the affected Medicaid  
 5 recipient or responsible party:

6 (a) Business names, business addresses, and business telephone numbers of  
 7 operators and administrators of the facility; and

8 (b) Business names, business addresses, and business telephone numbers of staff  
 9 physicians and the directors of nursing.

10 (9) The following information shall be provided to the nursing facility patient upon  
 11 admission:

12 (a) Admission and discharge policies of the facility;

13 (b) Payment policies relevant to patients for all payor types; and

14 (c) Information developed and distributed to the nursing facility by the  
 15 Department for Medicaid Services, including, but not limited to:

16 1. Procedures for implementation of all peer review organizations' reviews  
 17 and appeals processes;

18 2. Eligibility criteria for the state's Medical Assistance Program, including  
 19 circumstances when eligibility may be denied; and

20 3. Names and telephone numbers for case managers and all state long term  
 21 care ombudsmen.

22 Section 486. KRS 216.541 is amended to read as follows:

23 (1) Willful interference, as defined in KRS 216.535, with representatives of the Office  
 24 of the Long-Term-Care Ombudsman in the lawful performance of official duties, as  
 25 set forth in the Older Americans Act, 42 U.S.C. secs. 3001 et seq., shall be  
 26 unlawful.

27 (2) Retaliation and reprisals by a long-term-care facility or other entity against any

employee or resident for having filed a complaint or having provided information to the long-term care ombudsman shall be unlawful.

(3) A violation of subsection (1) or (2) of this section shall result in a fine of one hundred dollars (\$100) to five hundred dollars (\$500) for each violation. Each day the violation continues shall constitute a separate violation. The manner in which appeals are presented for violations of this section shall be in accordance with administrative regulations prescribed by the secretary for determining the rights of the parties. All fines collected pursuant to this section shall be used for programs administered by the Division~~[Office]~~ of Aging Services.

(4) The Cabinet for Health and Family Services shall authorize the acquisition of liability insurance for the protection of representatives of the Long-Term-Care Ombudsman Program who are not employed by the state, to ensure compliance with the federal mandate that no representative of the office shall be liable under state law for the good faith performance of official duties.

Section 487. KRS 216.750 is amended to read as follows:

As used in KRS 216.750 to 216.780:

(1) "Nursing home" means a facility which provides routine medical care in which physicians regularly visit patients, which provides nursing services and procedures employed in caring for the sick which require training, judgment, technical knowledge, and skills beyond that which the untrained person possesses, and which maintains complete records on patient care;

(2) "Personal-care home" means a place devoted primarily to the maintenance and operation of facilities for the care of aged or invalid persons who do not require intensive care normally provided in a hospital or nursing home but who do require care in excess of room, board, and laundry;

(3) "Fund" means the Nursing Home and Personal Care Home Loan Fund; and

(4) "Secretary" means the secretary of the Cabinet for Health and Family Services.



1 Section 488. KRS 216.760 is amended to read as follows:

2 The Cabinet for Health and Family Services shall be responsible for promotion of  
3 interest in the development of additional facilities for the housing and care of the elderly,  
4 and for providing consultative and technical assistance to public and private groups  
5 engaged in the development of such facilities. The cabinet's functions shall include but  
6 not be limited to:

- 7 (1) Promotion of local and community interest in the problem of housing and care for  
8 the elderly.
- 9 (2) Assisting local housing commissions in the development of low-rent housing  
10 projects for the elderly.
- 11 (3) Provision of information as to need for facilities in particular areas or locations.
- 12 (4) Provision of advice and assistance in the planning of facilities as to area to be  
13 served, size, type, staffing, operation, and maintenance.
- 14 (5) Provision of information as to the availability of federal financial assistance and the  
15 procedures which should be followed in applying for such assistance.
- 16 (6) Provision of information as to the availability of state financial assistance and the  
17 procedures which should be followed in applying for such assistance.
- 18 (7) Provision of information as to the availability of private financial assistance.
- 19 (8) Provision of information as to licensing requirements of the state or its political  
20 subdivisions.

21 Section 489. KRS 216.787 is amended to read as follows:

- 22 (1) No agency providing services to senior citizens which are funded by the Department  
23 for Community Based Services of the Cabinet for Health and Family  
24 Services~~[Families and Children]~~ or the Division~~[Office]~~ of Aging Services of the  
25 Cabinet for Health and Family Services shall employ persons in a position which  
26 involves providing direct services to a senior citizen if that person has been  
27 convicted of a felony offense related to theft; abuse or sale of illegal drugs; abuse,

neglect, or exploitation of an adult; or the commission of a sex crime.

(2) Operators of service provider agencies may employ persons convicted of or pleading guilty to an offense classified as a misdemeanor.

(3) Each service provider agency providing direct services to senior citizens as specified under KRS 216.785 to 216.793 shall request all conviction information from the Justice Cabinet for any applicant for employment prior to employing the applicant.

Section 490. KRS 216.793 is amended to read as follows:

(1) Each application form provided by the employer, or each application form provided by a facility either contracted or operated by the Department for Mental Health and Mental Retardation Services of the Cabinet for Health and Family Services, to the applicant for initial employment in an assisted-living community nursing facility, or nursing pool providing staff to a nursing facility, or in a position funded by the Department for Community Based Services of the Cabinet for Health and Family Services~~[Families and Children]~~ or the Division~~[Office]~~ of Aging Services, Department for Human Support Services of the Cabinet for Health and Family Services and which involves providing direct services to senior citizens shall conspicuously state the following: "FOR THIS TYPE OF EMPLOYMENT STATE LAW REQUIRES A CRIMINAL RECORD CHECK AS A CONDITION OF EMPLOYMENT."

(2) Any request for criminal records of an applicant as provided under subsection (1) of this section shall be on a form or through a process approved by the Justice Cabinet or the Administrative Office of the Courts. The Justice Cabinet or the Administrative Office of the Courts may charge a fee to be paid by the applicant or state agency in an amount no greater than the actual cost of processing the request.

Section 491. KRS 216.800 is amended to read as follows:

As used in KRS 216.800 to 216.853 unless the context requires otherwise:

- 1 (1) "Agreement" means a written contract between the authority and any city, county, or  
 2 other political subdivision of the Commonwealth or any combination thereof,  
 3 providing for the construction and financing and operation of one or more projects  
 4 of the authority;
- 5 (2) "Authority" means the Kentucky Health and Geriatric Authority, a body corporate  
 6 and politic created by KRS 216.800 to 216.853;
- 7 (3) "Bonds" means revenue bonds, notes, or other obligations either in original or  
 8 refunded form issued under the provisions of KRS 216.800 to 216.853;
- 9 (4) "Cost" means the expenditures for construction, acquisition of land, rights-of-way,  
 10 property, rights, easements and interest acquired for such construction, demolishing  
 11 or removing any buildings or structures on land so acquired, all machinery and  
 12 equipment, financing charges, interest prior to and during construction, engineering  
 13 and legal expenses, plans, specifications, surveys, cost and revenue estimates, other  
 14 expenses necessary or incident to determining the feasibility or practicability of  
 15 constructing any project, administrative expenses, and such other expenses  
 16 necessary or incident to the construction of a project, the financing of such  
 17 construction and the placing of the project into operation. Any expense heretofore  
 18 incurred by the cabinet on projects of the authority may be reimbursed to it from the  
 19 proceeds of revenue bonds of the authority;
- 20 (5) "Cabinet" means the Cabinet for Health and Family Services;
- 21 (6) "Lease" means a written lease made by the authority as lessor and the cabinet,  
 22 federal government, city, county, or other political subdivision of the  
 23 Commonwealth or any combination thereof;
- 24 (7) "Owner" means all individuals, partnerships, associations, or corporations having  
 25 any title or interest in any property, rights, easements, or interest authorized by KRS  
 26 216.800 to 216.853 to be acquired; and
- 27 (8) "Project" means any building, facility, equipment, or structure which the authority